

EXAMINING ENVIRONMENTAL LAWS IN THE EXTRACTION OF OIL AND GAS IN UGANDA

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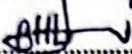


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DECLARATION.

I BIYINZIKA HELLEN hereby declare that this proposal is my original work and that it has not been plagiarized except for the quotations and summaries which I have carefully referenced. And this work has not been submitted to any other University apart from Uganda Christian University.


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Date 13th/04/2026.....

Approved by 
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Madam Dinah Mukasa.

Date; 13th April 2026.....

APPROVAL.

This is to confirm that this research paper has been done under my supervision and is now ready for submission to the school of law of Uganda Christian University with my approval.

Signature.....

Date;

MADAM DINAH MUKASA.

SUPERVISOR.

DEDICATION.

My dissertation is dedicated to my mother Mrs.Nakiwolo Dorothy Musisi who has toiled for my school fees and tuition.

My mother was not only providing financial support but she also provided encouragement to me, she used to remind me that the lord who began the good work in me will help me accomplish it to the very end. She also used to give me tactics of reading books , she often told me if you have failed to grasp the content then sing it or go in a quiet place and teach the trees that's how I began having a very good memory throughout my time in law school. From a committed parent to a committed student thus yielding success.

Apart from my mother my success was supported by a very wonderful, committed discussion group called "The Determined" these are classmates whom I discussed with from Year 1 to Year 4 all hard concepts became easy because of the team work we exhibited throughout. The support that this discussion group gave me cannot be described in mere words but it can be seen in my Marks and CGPA, I will forever be grateful to you friends. These friends include Wanyenze Eve, Kasiime Jovia, Bakka.

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Am so grateful to my supervisor Madam Dinah Mukasa who kept guiding me and putting me right while writing this dissertation. I can say that I learnt writing on the job since I had never wrote any book before.

I would also like to thank Nantongo Lisha, Stuart Semwongerere who encouraged me not to drop dissertation writing because I was at the verge of giving up on it.

The other friends that where part of “The Determined” discussion group include; Kayima Emy, Kiwumulo Norah, Bakka Flavia , Nakalembe Vivian, Akwar Immy and Deborah Kabanda.

Arinda Aaron was also of much help academically and his continued advise. Kaye Brinon helped me on the final editing of the dissertation.

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Another important person that has been so key on advising me and guiding me is Nyanzi Arthur Victor.

ABSTRACT.

The entire dissertation was examining the environmental laws in the extraction of oil and gas in Uganda. Confirming that Uganda has a very strong, firm environmental laws but the problem comes from the enforcement of these environmental laws and principles in the extraction of oil.

Also comparing how other neighboring jurisdictions like Nigeria, Norway have dealt with the protection of the environment while extracting oil in Uganda. Countries like Nigeria have applied strict liability laws that were established in the case of *Ryland v Fletcher* [1868] LR 330 where a person brings onto his land something that is likely to cause harm and that non-natural thing escapes then the person is responsible for the damage. Such laws were incorporated in the Nigerian laws and therefore Uganda should also do the same in order to increase liability for the damage caused by the oil spills/ pollutions on the environment.

Contents

DEDICATION.....	iv
HISTORY OF PETROLUEM EXPLORATION IN UGANDA.	1
INTRODUCTION.	6
BACKGROUND OF THE STUDY.	8
PROBLEM STATEMENT.	10
SCOPE OF THE STUDY.	12
SIGNIFICANCE OF THE STUDY.	14
RESEARCH METHODOLOGY.....	16
CHAPTER 1	16
CHAPTER 2	25
CHAPTER 3	54
CHAPTER 4	64

TABLE OF CONTENTS.

Chapter1 -----Historical development of
the oil and gas sector.

Chapter 2-----Review of the environmental
legal frame work governing the exploration of oil in Uganda and it's adequacy in
protection.

Chapter3 Comparative analysis with other Jurisdictions.

Chapter 4 ----- Recommendations

HISTORY OF PETROLUUM EXPLORATION IN UGANDA.

The country Uganda is so interesting with several physical features among these is that the country survives with five sedimentary basins and these are; the Albertine Graben, Hoima Basin, Lake Kyoga Basin, Lake Waals Basin , Kadam Moroto Basin .¹ But amongst these the most active one is the Albertine Graben.²It is formed by the northern most part of Eastern African Rift Valley System, 500km long averaging 45km wide and 23, 000 sq. Km. It runs through Uganda's western border with the democratic Republic of Congo and is a distance of 1200 Km from the nearest coast.³

One of the most first oil wells in Uganda was the oil seepage near Kibiro on the shores of Lake Albert but this was known by the few local people that stayed in that place.⁴ The first contribution to evaluation of the country's hydrocarbon potential was done by E.J Wayland, a government geologist, who wrote about the different hydrocarbon occurrences in the Albertine Graben in the 1920s.⁵

The oil exploration was also conducted in 1930s until the occurrence of the Second World War in 1939 to 1945.⁶ The most and efficient exploration of oil was resumed in the early 1980s with the acquisition of aeromagnetic data across the entire Graben and after geophysical and geological works also began in late 1980s and

¹ A Matter of Faith: The History of Petroleum Exploration in Uganda 1984 -2008, R.Kashambuzi 2011 (this book is by Reuben. J. Kashambuzi.

² [ibid]1

³ [ibid]1

⁴ <https://www.petroleum.go.ug/index.php/who-we-are/who-we-are/petroleum-exploration-history>.

⁵ Directorate of Petroleum- Uganda. (<https://www.petroleum.go.ug>.)

⁶ Supra 5

1990s. Seismic data was first acquired in the Graben in 1998.⁷ However, there very many surveys, drillings that have been conducted. Over one hundred wells have been drilled from 2002 to date and more shall be drilled.⁸

There is a further illustration of the oil developments that happened over the years and these are chronologically stated below;⁹

There were several oil developments that occurred before 1980.¹⁰

In 1925 there was a publication of the first petroleum book explaining about the oil of Uganda.¹¹

Uganda's petroleum became more known by many in 1925 when the geologist called E.J Wayland published a book known as Petroleum in Uganda. This book was comprised of existence of oil seepages this literature wrote by wayland attracted many companies' to Uganda's oil having illustrated the country's potential.

Between 1936- 1956 there was a move from theory to practical oil development.¹²

By the late 1930s, exploration had moved from theory to practice. The European Investment Company drilled Africa's first shallow well .Two years later, in 1938 the Waki B-1 deep well was drilled in Butiaba, Buliisa. Most of the first efforts of drilling

⁷ [ibid]4

⁸ [ibid]4

⁹ <https://www.petroleum.go.ug/index.php/who-we-are/who-we-are/petroleum-exploration-history>(accessed on 15th December 2025 from 3:00pm to 5:00pm)

¹⁰ [ibid]9

¹¹ <https://www.petroleumgo.ug/index.php/who-we-are/who-we-are/petroleum-exploration-history>.

¹² <https://www.econbiz.de> (The story of petroleum exploration in Uganda: 1984- 2008; a matter of faith.)

oil in Uganda they were just a foundation to the growth of the oil industry but truth be told that they were not all successful due to various reasons among these was inadequate machinery to drill the oil wells.

The Period of limited oil Activities.

Between 1945-1980 this was a period when the Second World War occurred which hindered the oil exploration.¹³

The World War II brought exploration to a pause because of the colonial policies that shifted, refocused from Uganda's back born which is agriculture to oil drilling and production. Even after Uganda gaining independence in 1962, political instability and economic uncertainty made the oil industry stagnant, stunted and so difficult.

Between 1983 to 2000s the oil exploration resumed.¹⁴

The Exploration of oil in Uganda resumed again in 1980s. In 1983, Uganda acquired 9600 kilometers of aeromagnetic data, identifying three depositional centers along the Albertine Graben was fundamental in the growth of Uganda's oil industry.

In 1985 there was establishment of the Petroleum Exploration Project.¹⁵

By 1985, the Petroleum Exploration Project was established to promote exploration and to gather geological and geophysical data. This very year is when the, Petroleum (Exploration and Production) Act was enacted which vested ownership of petroleum in the state and also set preliquisites for licensing any company to explore oil in Uganda.

¹³ [ibid]9

¹⁴ [ibid]9

¹⁵ [ibid]9

In 1986 the president focused on training of the workers who were working in the oil industries.¹⁶

In 1986 President Yoweri Museveni came up with new policy directions of the entity while emphasizing skill development, obtainment of information and monitoring compliance among the licensed corporations.

In nineteen ninety, Uganda entered an alliance with Congo to explorer oil together.¹⁷

The regional cooperation also began to operate in that very year. In 1990, Uganda and Congo went ahead to sign an agreement that the two countries would jointly explore and develop their shared oil fields.

In 1991 the first Production Sharing Agreement was entered.¹⁸

The first Production Sharing Agreement (PSA) was entered in 1991, between Petrofina Exploration Uganda and the government, catering for the entire Albertine graben. Around this period of time, the Petroleum Unit within the Geological Survey and Mines Department was upgraded to the Petroleum Exploration and Production Department (PEPD). The Graben was subdivided into 9 smaller exploration for easy management.

In 1992 Universities from abroad collaborated with Uganda to collect gravity Data from Lake Victoria.¹⁹

¹⁶ [ibid]9

¹⁷ [ibid]9

¹⁸ [ibid]4

¹⁹ [ibid]4

In 1992, Universities from Colombia, Leeds, and Lubumbashi collaborated with PEPD to collect gravity data on Lake Albert, deepening scientific understanding of the basin.

In 1993 Petroleum Exploration and Production regulations came into existence.²⁰

By 1993, the Petroleum Exploration and Production Regulations came into force, though Petrofina's licence was not renewed due to their ineffectiveness.

In 1997 serious oil exploration resumed when Heritage oil began drilling oil in Semiliki.²¹

The effective exploration of oil resumed in 1997, when Heritage oil and gas Limited was licensed to explore the Semliki Basin. Heritage went on to acquire Uganda's first 2-D seismic data in 1998, also conducted additional surveys in 2001. These efforts encouraged the drilling of oil and supported the need for magnetic studies.

In 2001 Heritage expanded its oil works in Uganda.²²

In 2001, Heritage expanded its seismic work, while Hardman Resources and Energy Africa (present day Tullow oil) were permitted to explore oil in the Northern Albertine Basin.

There oil developments continued up to date.

²⁰ [ibid]9

²¹ [ibid]9

²² [ibid]9

INTRODUCTION.

Everything that surrounds or affects an organism during its life time is called the environment. The word environment in French is derived from the word “’environner” meaning to encircle or to surround.²³ The environment is constituted of natural and man-made things. It’s also comprised of human beings, animals, plants, rivers, lakes and other physical features.²⁴

According to a scholar called Douglas and Holland the term environment is used to describe , in the aggregate, all external forces , influences and conditions, which affect the life , nature behavior and the growth , development and maturity of living organisms.²⁵ Environmental law is premised on a number of principles that encourage sustainable development in the oil and gas sector. Sustainable development principle is a cornerstone of environmental law and policy which advocates for the balanced integration of economic, social and environmental goals to meet the needs of the present without compromising the ability of the future generation to meet their own needs.²⁶ [This principle emphasized the significance of the long term environmental “stewardship” and responsible resource use especially in the extractive industry.](#)

Sustainable development was also incorporated in the international legal frame work like the United Nations Sustainable Development Goals (SDGs) which outlines specific

²³ Cambridge Learner’s Dictionary 4th edition.

²⁴ A paper on Environment Geography by the University department of Geography by Dr. Shyma Prasad of Mukherjee University Ranchi.

²⁵ Hand book on environmental law in Uganda by Kenneth Kakuru 1st edition.

²⁶ Handbook on Environmental law in Uganda by Kenneth Kakuru 1st edition.

targets for achieving sustainable development, for example by encouraging efficient resource use.²⁷

This principle has been further realized by the 2016 United Nations Environment Assembly that adopted 24 resolutions on key environmental issues including; a resolution on ‘‘Delivering of the 2030 Agenda for sustainable development’’²⁸ and another Resolution was adopted by General Assembly on 19th December 2023 on culture and sustainable development.²⁹

The 1995 constitution under Article 245 has also adopted the principle of sustainable development and subsection (b) effects that the parliament shall make law that encourage preservation of the environment.³⁰ Uganda's Albertine graben is one of forth coming areas of the extractive industry. The Albertine graben is surrounded with numerous game parks these include Queen Elizabeth, Murchison Falls, Kibale Forests, Mugahinga Gorilla national game park and Rwenzori Mountains that are so vital in the tourism industry, revenue source but most fundamentally they have a very high environmental value thus the petroleum Authority of Uganda observed that there are several innovative conservation efforts to safe guard the ecosystems for the coming generations. In order to support this goal of coexistence mitigation measures to minimize environmental effects have been put in place these include; use of silent drilling rigs to reduce noise and vibration, inward-facing warm lighting to minimize

²⁷ Hand book on Environmental law in Uganda by Kenneth Kakuru both 1st and second edition.

²⁸ United nations environment assembly of UNEP, sustainable development knowledge.

²⁹ <https://documents.un.org/doc/undoc/gen/n23/417/30/pdf/n2341730.pdf?#> sustainable development) accessed on 16th December 2025.

³⁰ 1995 Constitution of Uganda.

light pollution, dark-colored cars to match with the environment.³¹ In other words all these are done in order to preserve wildlife within their natural habitats.

This paper looked at examining environmental laws governing the extractive industry and whether they have been protected. Chapter 1 gave a brief development and discovery of oil and gas in Uganda and development of the oil industry. Chapter 2 looked at the regulatory legal frame work governing the extraction of oil. Chapter 3 looked at the environmental laws governing extraction of oil in other jurisdictions. Chapter 4 gave reforms, recommendations in the regulatory frame work governing the extraction of oil and gas in Uganda.

BACKGROUND OF THE STUDY.

Article 244³² provides for minerals and petroleum and it's to the effect that the government shall have control of all minerals and petroleum and shall be held in trust for the people. This reflects the public trust doctrine.

Objective 13 of the National objective of state policy effects that the state shall protect important natural resources, including the land, water, wetlands, oil, fauna and flora on behalf of the people.³³ The public Trust doctrine is a fundamental principle of environmental law and policy that affirms that it's the responsibility of the government to protect and manage certain natural resources for the public use and benefit. This doctrine originated from ancient Roman. In the case of *Metha v*

³¹ Report by the Observer on Albertine graben exploration sets delicate balance between oil and conservation by Serugo Geoffrey on September 8th 2025 (accessed on 16th December 2025)

³² 1995 constitution of Uganda as amended.

³³ Supra 32

kamal. Nath³⁴ and others court held that the state holds natural resources like rivers, forests and parks as a trustee for the public and hence cannot transfer them to private ownership or commercial use in violation of the public trust doctrine. Because even private ownership would undermine collective rights like this would restrict public access to the river.

In February 2008 Uganda's Ministry of Energy and Mineral Development published the National oil and Gas policy, which recognizes many challenges associated with natural resource wealth including the need to mitigate the potential for negative economic and fiscal impacts from the extractive industry. This paved way the Directorate of the Petroleum in the ministry of Energy and Mineral Development.

It was so unrealistic that Uganda did not have a comprehensive legal frame work to regulate it's oil and gas sector³⁵The law governing the oil and gas sector was Petroleum (Exploration and Production) Act 1985.The law covered the exploration, discovery and production but despite the fact that that law was existing it had not been used that much yet oil was being extracted.³⁶

But to date the oil sector has developed and has numerous laws, regulations and policies i.e. the Petroleum (Exploration Development and Production) Act, Petroleum (Exploration Development and Production) Regulations 2016 and the Petroleum and supply Act.

³⁴(1997)1 SCC388

³⁵ Courting the oil curse or playing rules / an analysis of legal and regulatory frame work governing oil in Uganda by Joseph Oloka Oyango.

³⁶ [ibid] 37

PROBLEM STATEMENT.

Uganda is a developing oil and gas country so in urge to protect and conserve the environment it has put in place laws like the National Environment Act cap181.

Uganda's environmental laws governing the exploration of oil are illusionary and deceptive in nature since they have not been fully enforced thus the several effects on the environment. These include the oil spills, air pollution, oil flares.

Oil spills.³⁷Due to the oil pipe leakages, release of hydrocarbons into the water bodies. The oil has damaged marine life/ fishing yet many people in surrounding the water bodies rely on fishing as their major source of income.³⁸ With such damage that means they have lost means of earning a living. In Uganda, oil spills have affected the people living next to River Semliki, River Sezibwa as a result of oil spills the locals of that area in 2011 ate poisoned fish and it led to death of many locals³⁹. But a good example is one of the BODO community in Nigeria that faced oil spills in river ogoni where various fish died as result of extraction of oil.⁴⁰

Loss of fertility. Oil spills lead to loss of soil fertility by altering its, chemical and biological properties through the toxic effects from the hydrocarbons, disruption of the nutrient cycling and the physical changes of the soil structure. Uganda's economy contributes 25% of the gross National Income(from agricultural exports) 99% of the rural population work in both crop and livestock sectors, it's also a food basket for

³⁷ A paper on illusion of sustainable development in Nigeria. By Vermont Law Review.(Stevens Book)

³⁸ [ibid] 39

³⁹ New vision report on River Sezibwa oil spill on 14th April 2011.

⁴⁰ King John Bari and others v Shell Petroleum Development company of Nigeria [2024] EWHC 276.

both rural and urban dwellers there has been a significant loss of income and a serious yield loss as a result of the oil and gas activities.⁴¹For example the Albertine Graben.

The Petroleum (Exploration Development and Production) Act does not expressly provide for the requirement of Disclosure of information about the Environment Impact Assessment thus infringing on their right to acquire information relating to the environment.⁴²

RESEARCH OBJECTIVES.

General objective.

The major objective of this research was to review environmental laws that govern the oil industry in Uganda and whether they are adequately protected.

Special Objectives.

This paper expounded the Development and discovery of oil and gas in Uganda and it's key issues.

The research examined environmental laws in other jurisdictions like Norway and other countries like Nigeria.

The paper lastly gave proposals for reform in the regulatory framework governing the extraction of oil and gas in Uganda.

RESEARCH QUESTIONS.

⁴¹ Global Waste Cleaning Network. (Its paper on analyzing the impact of oil and gas exploration processes on the Environment especially on the yield of Beans.

⁴² Article 41 of the 1995 constitution of Uganda as amended.

Whether environmental laws in Uganda have been observed in the oil industry?

What has the government done in order to promote the environmental laws in the oil industry?

SCOPE OF THE STUDY.

a) Time Scope.

The study covered periods of 2005 to 2025

b) Geographical scope.

The study focused Uganda's Albertine region in particular.

c) Content Scope.

The study discussed and examined whether citizens of Uganda are adequately protected by the existing laws governing the oil and gas industry in Uganda.

JUSTIFICATION FOR THE STUDY.

The study looked at concerns as to whether environmental laws under the oil and gas sector were met to the expectations of the citizens of Uganda and whether they need modifications to better useful and effective laws.

True the Ugandan constitution provides for the environmental rights but it remains so weak in protecting the environment during the extraction of oil. The weakness comes from the vague wording of the laws, lack of enforceability and the broad government discretion.

The 1995 constitution uses broad, non- enforceable language for example Article 39 that effects that every Ugandan has a right to a clean and healthy environment. This article is not strong enough because it cannot be enforced alone it has to rely on other laws. Scholars note that it creates a gap between the right and the practical protection.⁴³

Article 244 provides for ownership and control of resources and it effects that the government shall have full control over petroleum, minerals and natural resources in trust for the people.⁴⁴ This Article priotizes state ownership other than protection of the environment and it does not provide for safe guards before the extraction of the oil.

Article 40 which effects that the parliament shall enact laws to provide for the right of persons to work under a satisfactory, safe and healthy environment.⁴⁵ The parliament failed to enact enforceable and effective laws which aim at protecting the local labor in the oil and gas laws.

Most of these gaps in the oil sector point to lack of enforceability mechanisms of the environmental laws in the oil industry.

⁴³ Kisubi Esther, Prof Godard Busingye an Article on the resource curse in Uganda.

⁴⁴ 1995 Constitution of Uganda as amended.

⁴⁵ 1995 Constitution of Uganda as amended

SIGNIFICANCE OF THE STUDY.

The government of Uganda through the parliament should enact strict liability laws that impose a duty of care on all international oil companies since there is payment of Damages in the event of breach of that duty of care. In that way they will be held liable for damage caused as a result of the oil spills thus promoting a clean and a healthy environment.

The principle of strict liability was introduced in the case of *Ryland v Fletcher* where a person brings onto his land something that is likely to cause harm, if it escapes. (Non-natural thing)The person in such a case is responsible for the damage not for being negligent.⁴⁶This principle has been incorporated in some of the laws of our neighboring countries for example Section 11(5) (c) of the oil pipelines Act of Nigeria 1956 which effects that if the holder of the licence shall pay compensation for the damage caused as a result of a breakage or leakage from an oil pipeline. This was evidenced in the case of *Akpan v Royal Dutch Shell*⁴⁷Where court based on this strict liability provision and found the respondents liable for the damage they had caused to Akpan as a result of the oil spills in the nearby village of Ikot Ada.

Other claims for damage caused by the result of oil spills can also brought through the common law principles of tort law which include; Negligence, Nuisance, trespass and strict liability as already illustrated above. Most countries like Uganda have not

⁴⁶ (1868) LR 3 HL 330

⁴⁷ (Docket Number C/09/337050/H.A.Z.09) of 1580 (2013)

codified or incorporated these principles in their domestic laws governing the environmental principles to be considered while making their laws. However, in the case of Akpan the Nigerian farmers sought for compensation for the damage they had suffered as a result of the oil spills by claiming that all that was as a result of the Negligence of the respondents while referring to the case of *Donoghue v Stevenson*⁴⁸ that the tort of negligence is committed in the event that the defendant breached a duty of care that resulted into the damage on part of the plaintiff. However the 3 principles of *Capro Industries p/c V Dickman*⁴⁹ which include foreseeability, proximity and that it must also be fair, just and reasonable to assume that a duty of care exists in a particular situation thus in this case all those principles were met and the respondents were found liable to pay 15 million.

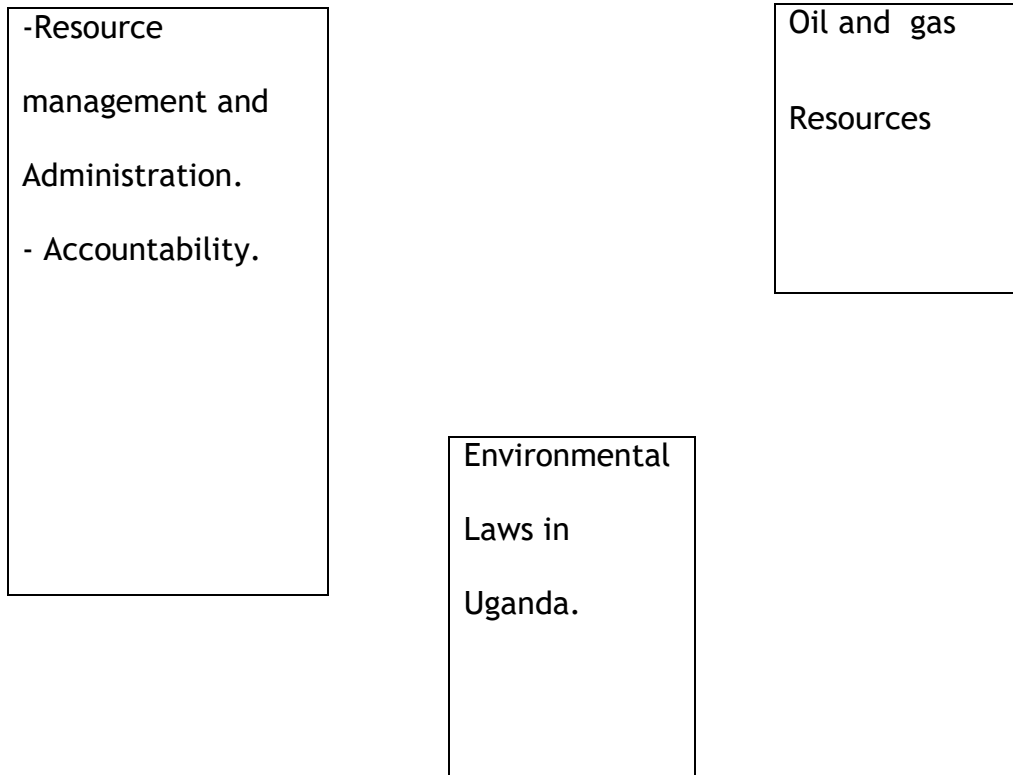
The same case of Akpan explained Nuisance where the plaintiff alleged violation of the right of enjoyment or the right of use of the land which also been codified in their law.

In conclusion the Ugandan government must borrow a leaf from countries like Nigeria and incorporate these common law principles in our environmental laws that govern the exploration of oil in order to create a wide range of liability for the infringers of the environment in the name of drilling of oil.

⁴⁸ 1932

⁴⁹ 1990

CONCEPTUAL FRAME WORK



RESEARCH METHODOLOGY

The research shall be both qualitative and quantitative research proposal and be carried out through basically Doctrinal research and some questionnaires from some experts were need arises.

CHAPTER 1

The first contribution to the evolution of the Uganda's hydrocarbon was uncovered by E.J. Wayland, a government geologist, who put on paper numerous hydrocarbon occurrences in the Albertine Graben in the 1920s. This attracted the British colonial government and Anglo-Persian oil company which agreed to make a joint venture project to produce oil in Uganda in 1929.⁵⁰

In 1936 the first shallow well was drilled in Africa by the European Investment Company. Later the first deep well Waki B-1 well was drilled in 1938 in Butiaba, Buliisa. This well yielded less progress due to the political instability and shifting national priorities.

During the Second World War (1939) oil exploration was paused because it came with a lot of negative effects among these were the changes of policies by the colonial masters. East Africa was known for agriculture and West Africa was known for the exploration of oil.

Uganda fought and got independence from the colonialists in 1962. The new government was led by president Obote who revived the oil exploration process in the same year he became president, he did this by granting shell exploration rights but shell abandoned the project after assessing its economic viability.⁵¹ Even after Uganda attained its independence there was still a lot of uncertainties and instabilities thus the oil sector did not grow much during this period of time.

⁵⁰ A matter of Faith .The history of petroleum Exploration in Uganda 1984-2008, by R.Kashambuzi 2011.

⁵¹ [ibid]53

The political instability that Uganda faced during the guerilla war, distorted the economic activities, thus inconveniencing oil exploration in the country. The exploration process was resumed in the 1980s, when the new government of Obote 2 came into power.

In 1985 the first Petroleum (Exploration and Production) Act was enacted whose main aim was to vest ownership of petroleum in the state, provide licensing rules and to regulate exploration and production of oil.

The regulation of oil exploration and production in Uganda has evolved alongside the country's political stability. In 1986, President Yoweri Museveni came into power, and since then Uganda has largely remained stable, apart from the Northern Uganda conflict with the Lord's Resistance Army (LRA), which ended around 2006. This stability created an environment that allowed the government to pursue oil exploration.

In the Albertine Graben—an area Uganda shares with the Democratic Republic of Congo—the two governments signed a cooperation agreement for the exploration of hydrocarbons and the exploitation of common fields. This agreement paved the way for Uganda to sign its first Production Sharing Agreement (PSA) with Petrofina, a Belgian oil company. Petrofina was granted exploration rights over the entire Albertine Graben. However, its license expired in 1993 without achieving any significant progress in the oil industry.⁵²

⁵² [ibid] 54

In 1997, the government of President Yoweri Museveni revived Uganda's oil exploration efforts by signing a Production Sharing Agreement (PSA) with Heritage Oil and Gas Ltd. The company was granted exploration rights over Exploration Area 3, which encompassed the Semliki Basin and the southern part of Lake Albert. Heritage Oil subsequently carried out Uganda's first seismic survey in this region. The results of the survey were highly promising, revealing the significant potential of the Albertine Graben and making it impossible to overlook its capacity for oil production. Despite these encouraging findings, in 1998 President Museveni temporarily halted exploration activities. He instructed the technical staff involved in the sector to pursue advanced studies abroad in order to acquire specialized expertise. This decision underscored the government's recognition that building local technical capacity was essential for the sustainable management of Uganda's oil resources. By prioritizing knowledge and skill development, Uganda positioned itself to better harness its petroleum potential in the future.⁵³

In 2001, the Government of Uganda advanced its petroleum exploration efforts by signing a Production Sharing Agreement (PSA) with Hardman Petroleum of Australia and Energy Africa, a United Kingdom-based company, granting each a 50 percent stake in exploration rights over Exploration Area 2, located in the northern part of Lake Albert. This momentum continued in 2005 when Uganda entered into another PSA with Neptune Petroleum (Uganda) Ltd for exploration rights over Exploration Area 5, covering the Rhino Camp Basin in the West Nile region. During the same year, the

⁵³ [ibid] 54

Government of Norway extended crucial support to Uganda through a grant of approximately USD 4.2 million aimed at strengthening the administration of the upstream petroleum subsector. The project was structured around three key components: the development of a regulatory framework for petroleum governance, institutional capacity building for the Petroleum Exploration and Production Department (PEPD), and the facilitation of technical and economic studies. Together, these agreements and international partnerships marked a significant step in shaping Uganda's oil sector, laying the foundation for both regulatory and institutional readiness to manage the country's petroleum resources effectively.⁵⁴

The Ministry of Energy and Mineral Development announced that out of the sixty-six exploration appraisal wells drilled, fifty-nine were successful, demonstrating a remarkably high success rate. Based on these findings, it was estimated that Uganda possessed approximately 3.5 billion barrels of recoverable oil. The discovery of commercially viable deposits marked a turning point in the country's petroleum sector, making the establishment of credible management policies and robust regulatory frameworks an urgent priority for the government. This shift underscored the recognition that effective governance structures were essential not only to safeguard national interests but also to ensure that the exploitation of oil resources would contribute sustainably to Uganda's economic development.⁵⁵

⁵⁴ [ibid]53

⁵⁵ Ministry of energy and Mineral Development Annual Report.

The National Oil and Gas Policy, drafted with financial and technical support from Norway, was approved by Uganda's Cabinet and formally adopted by the Ministry of Energy and Mineral Development in 2008.⁵⁶

The policy set out a comprehensive vision for the petroleum sector, pledging that oil and gas development would contribute to the early achievement of poverty eradication and generate lasting value for society. Central to its commitments was the assurance of transparency and accountability across all stages of the petroleum value chain, including licensing, procurement, exploration, development, and production operations, as well as the management of revenues derived from the sector. By embedding these principles, the policy sought to establish a governance framework that would safeguard national interests, promote equitable resource distribution, and ensure that Uganda's petroleum wealth would be harnessed responsibly for sustainable economic growth.

On 11 April 2021, Uganda reached a major milestone in its petroleum sector by signing key agreements that laid the foundation for the development of its oil resources. These included **Host Government Agreements**, the **Tariff and Transportation Agreement**, and **Shareholders Agreements**. Collectively, these accords provided the legal and institutional framework necessary for collaboration between the government and international oil companies. Their signing paved the way for the approval and awarding of contracts in engineering, procurement, and construction, thereby marking the transition from policy and exploration to the practical implementation of

⁵⁶ Ministry of Energy and Mineral Development Annual Report 2008.

Uganda's oil development agenda. This step signified not only the government's commitment to operationalizing its petroleum resources but also its determination to ensure that the sector was managed through structured agreements designed to balance national interests with investor confidence.⁵⁷

Between 2021 to 2025 Uganda's oil sector has experienced major milestones and investments. These include the agreements Uganda signed with Tanzania for the East African Crude Oil Pipeline (EACOP) allowing the construction of that pipeline. Still in December 2021 the parliament passed the EACOP Special Provisions Bill.⁵⁸

In the same period there was the Tilenga Project (Total Energies) Development of six oil fields. The drilling had plans of even producing 190,000 barrels per a day. Then King Fisher had 15 out of 19 initial wells completed by late 2025⁵⁹

In conclusion of the history and development of the oil and gas industry it has been characterized with a lot of transformations from oil exploration to commercial productions. Having looked at the development of oil and gas in Uganda it not only comes with positive effects, but also comes with negative effects to the environment. These include the following;

The discovery, development, and production of oil in Uganda present long-term environmental challenges, particularly through land degradation and inadequate waste management practices associated with extraction and disposal. For example, in 2012 Heritage Oil was reported to have dumped untreated waste valued at

⁵⁷ <https://www.petroleum.go.ug>

⁵⁸ Uganda Investment Authority. (<https://ugandainvest.go.ug>)

⁵⁹ Uganda Investment Authority website.

approximately USD 300 into local farmlands⁶⁰, raising serious concerns about compliance with environmental standards. Anxiety surrounding the sector has further intensified with the large-scale operations initiated by the **China National Offshore Oil Corporation (CNOOC)** at the Kingfisher oil field since 2015. This field is estimated to contain 635 million barrels of crude oil, of which 196 million barrels are recoverable. Planned developments include a central processing facility for water sanitation, an oil tank assembly plant, power generation infrastructure, and truck-loading facilities. Importantly, the Kingfisher project involves the construction of an 85-kilometer pipeline traversing the biodiversity-rich Kabwoya and Bugungu wildlife reserves at the base of the Rift Valley, leading to the greenfield refinery at Kabaale in Buseruka Sub-county, Hoima District. Such infrastructure poses significant risks to flora and fauna, particularly wildlife populations, which face heightened vulnerability in the event of accidents such as pipeline ruptures. Oil spills into Lake Albert would not only endanger aquatic ecosystems but also threaten the livelihoods and safety of surrounding communities, underscoring the urgent need for stringent environmental safeguards and sustainable management practices in Uganda's petroleum sector.⁶¹

The impact of oil and gas on the food security. The food Supply has been negatively affected by the extraction of oil and this is due to the following reasons.

Loss of Farmland, large tracts of land in the Albertine Graben have been acquired for oil projects, reducing space for crop cultivation and livestock grazing .This results into

⁶⁰ Accelerating Growth and maintaining intergenerational Equity Using Oil Resources in Uganda, Lawrence Bategeka and Joseph Mawejje 2013, 41.

⁶¹ [ibid]66

loss of agricultural livelihoods of these people and incomes thus increasing the poverty rates in Uganda. As an example more than two-thirds of Uganda's population is engaged in the agricultural sector (UBos 2021). And the sector contributes about 24% of the country's Gross Domestic Product. (GDP)⁶²

The reliance on fossil fuels contributes significantly to environmental degradation and the emission of greenhouse gases, which in turn drive global climate change. Although Uganda is a relatively small emitter on the global scale, the country is not insulated from its impacts. Rising variability in rainfall patterns and the increasing frequency of extreme weather events have already begun to affect Uganda's socio-economic landscape. These climatic shifts pose a direct threat to agricultural productivity, as changes in temperature regimes and unpredictable rainfall undermine crop growth cycles. The resulting variability in weather conditions heightens the risk of crop failures, thereby reducing food production and availability. Such outcomes not only jeopardize food security but also intensify vulnerability among rural communities whose livelihoods depend heavily on agriculture. This underscores the urgent need for **climate adaptation strategies** and **sustainable resource management** to mitigate the long-term environmental and socio-economic consequences of fossil fuel dependence.⁶³

In Conclusion of the negative effects of the oil and gas industry, it enacted environmental laws to regulate the exploration of oil and gas.

⁶² Occasional Paper NO.57 (2024) (Agriculture Linkages to the oil and gas Sector in Uganda by the Economic Policy Research Centre (EPRC)

⁶³ Centre for Multilateral Affairs (CFMA) Fossil Fuel Production and Food Security in Uganda .(<https://thecfma.org> 2023

CHAPTER 2

REVIEW OF THE ENVIRONMENTAL LEGAL FRAMEWORK GOVERNING THE EXPLOIRATION OF OIL IN UGANDA AND ITS INADEQUACY IN PROTECTION.

This chapter reviewed the regulatory framework governing oil and gas in Uganda and examined whether it provided adequate protection for the environment.

Uganda's regulatory framework for the oil sector is so comprehensive, but there are questions as to whether the environment has been protected in the oil and gas industry.

In Uganda, the legal framework governing environmental justice, protection, and community participation in the oil and gas sector included the **1995 Constitution of Uganda**, the **Petroleum (Exploration, Development and Production) Act of 2013**, and the **National Environment Act of 2019**. Among these, the Petroleum (Exploration, Development and Production) Act served as a cornerstone piece of legislation regulating petroleum activities in the country. It outlined the licensing regime for exploration, development, and production operations, clearly defining the rights and obligations of license holders. . It also established the **Petroleum Authority of Uganda (PAU)** to oversee and regulate petroleum activities, including environmental compliance. However, despite these provisions, the legislation remained primarily focused on resource exploitation and revenue generation, with limited emphasis on environmental conservation and community participation. This

imbalance presented significant challenges to ensuring adequate protection of the environment and meaningful involvement of affected communities in Uganda's oil and gas governance framework ⁶⁴

The Constitution.

The 1995 Constitution enshrines the right to a clean and healthy environment. Particularly Article 39 guarantees every Ugandan citizen the right to a clean and healthy environment and mandates the state to take measures to protect and also preserve the environment for the present and future generation.⁶⁵ This provision provides for a legal basis for the protection of the environment.

In order to provide for a more detailed law about the preservation of the environment during extraction of oil, the National Environment Act was enacted and it provides for principles governing conservation of the environment. These principles include the polluter pay principle. This Act also empowers the National Environment Management Authority (NEMA) to regulate and to monitor environmental activities including those related to oil and gas industry, it also assesses potential environmental impacts and propose mitigation measures.⁶⁶

Despite Uganda's comprehensive legal framework for governing oil and gas, significant challenges persisted in its effective implementation. Weak enforcement mechanisms and limited community participation hindered the realization of environmental justice

⁶⁴ International Journal of Academic Management Science Research (IJAMSR) Vol 8 Issue 4th April 2024, page63-67(About Environmental Justice in Uganda's oil and gas sector .Assessing the legal, institutional and Implementation Frameworks by Kisubi Esther Christine.

⁶⁵ 1995 Constitution of Uganda as amended.

⁶⁶ [ibid]47

objectives. For instance, overlaps and contradictions between the **Petroleum Act** and the **National Environment Act** created confusion and delays in decision-making processes. Moreover, enforcement capacity remained inadequate, with institutions facing resource constraints and limited technical expertise to monitor compliance effectively. These shortcomings not only undermined environmental protection but also restricted meaningful involvement of local communities, thereby weakening accountability and sustainability in Uganda's oil and gas governance framework ⁶⁷

To address these persistent challenges, stakeholders needed to invest considerable effort in strengthening regulatory oversight, enhancing transparency, and promoting meaningful engagement with communities directly affected by oil extraction—particularly in the Albertine region. Effective governance required not only robust legal frameworks but also their consistent enforcement, coupled with mechanisms that ensured local populations were actively involved in decision-making processes.

The 1995 Constitutional provision of Article 39 and Article 244 of the constitution are not exhaustive on the protection of the environment in the extractive industry which creates a loop hole in the preservation of the environment and because they do not directly provide for penalties for infringement of the environment while exploring oil.

Section 129⁶⁸ of that Act provides for Pollution Damage .Subsection 3 provides for compensation as a result of petroleum activities to the injured parties. This means

⁶⁷ Muhumuza 2019

⁶⁸ Petroleum (Exploration Development and Production) Act Cap 161

that once an oil company goes ahead to pollute the environment it shall be liable to payment or compensation.

National Environment Act cap181

The long title of this Act provides for the management of the environment for sustainable development, to continue the National Environment Management Authority as a co coordinating , monitoring , regulatory and supervisory body for all activities relating to environment , to provide for emerging environmental issues including climate change , the management of hazardous chemicals and biodiversity offsets , to provide for strategic environmental Assessment , to address environmental concerns arising out of petroleum activities and midstream operations, to provide for the management of plastics and plastic products to establish the environmental Protection Force, to provide for enhanced penalties for offences under the Act, to provide for procedural and administrative matters and related matters.

Section 3 of NEA provides for the right to a decent environment.⁶⁹

- 1) Every person in Uganda has a right to clean and healthy environment in accordance with the constitution and the principles of sustainable development.
- 2) Every person has a duty to create, maintain and enhance the environment including the duty to prevent pollution.

⁶⁹ National Environment Act cap181

- 3) A person may where the right referred to in subsection 1 is threatened as a result of an act or omission by any person which has or is likely to cause harm to human health or the environment or in enforcement of the duty referred to in subsection 2, file a civil suit against the person whose act or omission has or is likely to cause harm to human health or the environment.
- 4) A person proceeding under subsection 3 may file a civil suit notwithstanding that the person cannot prove that the act or omission of another person has caused or is likely to cause personal harm or injury.
- 5) The civil suit referred to in subsection 3 may be to require court;
 - (g) To compel the persons responsible for the environment degradation to restore the degraded environment as far as practicable to it's immediate condition prior to the damage.

Section 129 NEA provides for power to issue environmental notices and orders.⁷⁰

- 1) Subject to this Act , the Authority or an authorized officer may issue the following notices;
 - a) Environmental improvement notices.
 - b) Environmental compliance notices.
- 2) The authority may issue the following orders;
 - a) Environmental restoration orders.
 - b) Prohibition orders.

⁷⁰ National Environment Act cap181

c) Stop orders.

4) The Authority or an authorized officer may inspect or cause to be inspected any activity to determine whether that activity;

a) Is causing or is likely to cause pollution, contrary to the this Act or

b) is harmful to human health or the environment.

5) The Authority or an authorized officer may take into account the evidence obtained from an inspection carried out under subsection 4 when making a decision whether or not to serve a notice or order under this section.

Section 130 of the NEA provides for Environmental Restoration Orders.⁷¹

1) Subject to this part, the Authority may issue an environmental restoration order to any person whose activities cause or are likely to cause pollution contrary to this Act or which are deleterious to human health or the environment.

2) An environmental restoration order issued under subsection 1 may contain a prohibition or a stop order and the person on whom it is served shall be required, without need for further notice;

a) To immediately prevent the commencement of or to cease any activity that is deleterious to human health or the environment.

b) To restore the environment as near as possible, to the state in which it was before the taking of the action which is the subject of the order.

⁷¹ National Environment Act cap 181

- c) To make such action as will prevent the commencement or may contribute to causing pollution.
 - d) To require clean-up of the pollution or restoration of the damaged environment, using the best available techniques.
- 3) Without limiting the general effect of subsection 2 or the powers of the authority , an environmental restoration order may require a person on whom it is served ;
- a) To restore land and it's ecological and ecosystem functions, including the replacement of soil, the re-planting of trees and other flora.
 - b) To restore, as far as possible, outstanding geological, archaeological or historical features of the land or the area contiguous to land specified in the order.

Restoration orders these are either issued by court or National environment Management Authority instructing the degrader to restore the environment to nearly the state it was in before taking into action of the infringing activities.⁷² The authority may go ahead to issue restoration orders to any person whose activities are likely to cause pollution or harm the environment.

The restoration orders were issued in the case of Nyakana v National Environment Management (NEMA).⁷³ The facts of the case are that the respondent carried out an inspection on Nakivubo wetland located at Nakawa District and they found that the appellant's house was in wetland. A meeting with the residents was conducted with

⁷² Pursuant to section 130 (national environment Act cap181)

⁷³ Constitutional Appeal No. 05 of 2011

NEMA inspectors and advised all people who had constructed in wetlands to vacate. Other degraders vacated the wetland and the appellant adamantly refused to vacate and even went ahead to construct his house in a wetland despite the fact that he had attended the meeting and he had been warned against constructing there. The 1st respondent served him with the "Restoration Order" that required him to comply with certain conditions including demolition of the house within 21 days but he failed to comply with it and his house was demolished by NEMA. Thus this appeal were the appellant argued that the restoration orders were against the right to fair hearing enshrined under Article 28 of the 1995 constitution and other provisions of the constitution like Article 21, 22, 24, 26, 27.

Court Held; That the Restoration Orders had been issued under the then section 67 of the National Environment Act that stated that when harm has been or is likely to be caused to the environment and that there is no legal requirement to grant the petitioner a hearing before the Restoration Order is issued. (b) stated that if the right to be heard in court or a tribunal was a prerequisite to issuance of the restoration orders, the environment would be seriously and adversely affected by acts of persons and that the cardinal principles of precaution and polluter pays in environmental management would not achieve the desired effect of good environmental practice and protection.

The appellant would have challenged the restoration order in court within the stipulated time but he chose to ignore the Environmental restoration order and also

continued carrying out the construction of his house yet he had been discontinued. Justice Bart Katureebe found that the appellant had not been denied a fair hearing but he heard failed to utilize the opportunity accorded to him by the law. Thus court found that the impugned provision of the National Environment Act was not inconsistent with the constitution. And that the provisions actually gave the appellant reasonable opportunity to present his case and to be heard therefore the appeal failed.

This case also further explained the nature of Restoration orders that these are not necessary equivalent to the criminal law charge sheet that commences the suit but an Environmental Restoration Order is issued at the conclusion of investigations and NEMA 's internal processes where NEMA 's inspection are made and considered upon. And that NEMA has come to a conclusion that the recipient of the Environmental Restoration Order is either about to harm or has harmed the environment in a manner stated in the Restoration Order.

True the case of Nyakana v NEMA was not directly relating to oil and gas projects but it created a precedent that NEMA has authority to issue a binding restoration order against all activities that are likely to cause pollution and harm to human health, environment of which oil activities are also harmful to the environment thus National Environment Authority has power to issue restoration orders against them if their activities degrade the environment.

Section 5 NEA provides for principles of environment management.⁷⁴

- 1) The Authority shall ensure that the principles of environment management set out in subsection 2 are observed, taking into account the finite nature of non-renewable resources and the productivity of the available renewable resources.
- 2) The principles of environment management referred to in subsection 1 include;
 - b) Providing for equitable, gender responsive and sustainable use of the environment and natural resources, including cultural and natural heritage for the benefit of both present and future generations.
 - d) Ensuring optimum sustainable yield in the use of renewable natural resources.
 - e) Ensuring that activities relating to the extractive processes of renewable and non-renewable natural resources are carried out in a sustainable manner.⁷⁵

Sustainable Development is defined by the Brundtland Commission on Environment and development in its 1987 report. That sustainable development is the development that meets the needs of the present without compromising the ability of the future generations to meet their own needs.

The national objectives and directive principles of state policy under objective 27 state that; i) the state shall promote sustainable development and public awareness

⁷⁴ National Environment Act cap181

⁷⁵ National Environment Act cap 181

of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations.

ii) The utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of the present and future generations of Ugandans and in particular the state shall take all possible measures to prevent or minimize damage and destruction to land, air and water resources resulting from pollution or other causes.⁷⁶

As an initiative to implement the provisions about sustainable development the Uganda National Oil (UNOC) entered into an alliance with the Climate Action Alliance as a way of responding to the high rates of deforestation in Uganda and the need to ensure reduced carbon emissions from Uganda's oil and gas sector. Through this alliance UNOC launched the reforestation and afforestation project of 40 million trees on 40,000 to 100, 000 hectares of land.⁷⁷

Another effort taken by UNOC in promotion of sustainable development in the oil industry was their plan of a planned Refinery that produces cleaner fuels conforming to Euro 5/ Afri-6 specifications as well as reducing emissions from transportation of the refined petroleum products from East Africa.⁷⁸

However, the Uganda oil company has also failed to effectively promote sustainable development since it's involved in the projects that threaten ecological sensitive Areas such as Lake Albert shore project. Uganda's oil lies in ecologically sensitive

⁷⁶ 1995 Constitution of Uganda as amended.

⁷⁷ Report by UNOC on UNOC's path to sustainable Exploitation of Uganda's oil and gas resources.

⁷⁸ <https://www.unoc.co.ug> (report on path to sustainable Exploitation of Uganda's oil and gas resources).

areas including the shores of Lake Albert and near Murchison Falls National park .The proposed East African Crude oil pipeline (EACOP), a 1443 heated pipeline to Tanzania's coast has drawn a lot of criticism with activists warning deforestation , displacement of wild life, carbon emissions.⁷⁹All these activities being a hindrance to the principles of sustainable development enshrined under section5 (1), (2) of the national Environment Act cap 181.

Pollution.

Section 56 of the NEA provides for prohibition of Discharge of hazardous substances, chemicals, oil into the environment. Subsection 3 (a) effects that any person who discharges oil into the environment is under and obligation to pay the cost of polluting the environment.⁸⁰

Section 78 of the NEA provides for prohibition of pollution.⁸¹

- 1) A person shall not cause pollution or initiate anything that may occasion a risk of pollution, except in accordance with this Act and any other applicable law.
- 2) Subject to subsection1, a person whose activities are likely to cause pollution shall put in place measures to prevent the pollution from occurring, including by use available techniques and best environmental practices.
- 3) Where any law permits venting or flaring of gases and other particulate matter into the atmosphere for normal operational purposes or emergency situations,

⁷⁹ Report by UNOC on Balancing Progress and Preservation of Uganda's Journey and Delicate Balance of Development. (<https://www.unoc.co.ug>)

⁸⁰ [ibid] 84

⁸¹ National Environment Act cap181

the persons who vents or flares shall take measures to minimize the pollution caused by flaring or venting.

- 4) For avoidance of doubt, the venting or flaring referred to in subsection 3 shall be in compliance with the air quality standards prescribed under this Act.
- 5) Notwithstanding subsections 1 and 2 the authority may issue a licence for the control of pollution, in accordance with this Act and regulations made under this Act for activities likely to cause pollution.

Section 79 of the NEA measures to take in event of pollution.⁸²

- 1) Subject to section 78 (1), where pollution has occurred contrary to this Act, regulations made under this Act any other applicable law environmental standards or conditions of a licence issued under section 78(5) , the person responsible for pollution shall;
 - a) Take the necessary action to stop further pollution and minimize the impacts of the pollution on human health and the environment.
 - b) Give notice of the pollution to the authority and relevant lead agency in the manner prescribed by the regulations.
 - c) Take steps to mitigate any damage or nuisance resulting from the pollution or from measures to counteract it.
 - d) Take steps to clean up and restore the environment as near as possible to its original state and

⁸² National Environment Act Cap 181

e) Pay compensation for the damage caused in accordance with this Act and any law applicable.

(2) Where the person responsible for pollution fails to comply with the requirements of subsection 1, the authority may;

a) Order the person to stop the activities causing the pollution.

b) Order the person to implement the measures prescribed under subsection 1

c) Implement the measures under subsection 1 at the cost of the person responsible for the pollution.

d) Revoke a licence if the activity is licensed.

e) Carry out any other measures the authority deems necessary.

Section 80 of the NEA provides for Liability of the Polluter.⁸³

1) A person who pollutes the environment contrary to this Act or any other applicable law is strictly liable for any damage caused to human health or the environment, regardless of fault.

2) Notwithstanding subsection 1 a person who does an act or makes an omission that may aggravate the damage or nuisance caused by earlier pollution is equally and jointly responsible for the pollution.

No person shall cause or initiate activities causing pollution and if they do so necessary measures like an order to stop the activities of pollution shall be issued by

⁸³ National Environment Act cap 181

the National Environment Management Authority and also has capacity to revoke the licence thus the National environment Act creates a very strong and firm law against pollution.⁸⁴

An example of enforcement of the environment laws against pollution was seen when NEMA arrested two polluters of the environment at the oil Buster Industry Ltd where there had been improper handling of wastes, multiple oil spills within the facility's premises.⁸⁵

However much NEMA has fought against pollution in the oil industry, it has some shortcomings as to approval of oil projects despite of the environment critics and it makes decisions only bent to attaining revenue from the project other than prioritizing the environmental protection. For example NEMA approved the Tilenga oil project yet it is located in a very sensitive area with Murchison falls national Game Park where there are higher chances of noise pollution to the animals and even at times they are displaced.

Uganda's National Environment Act provides for a strong legal framework for environmental protection by recognizing rights of nature, mandating environmental protection and social impact assessments, regulating hazardous chemicals and plastics and establishing enforcement mechanisms like the Environmental Protection Force. However, while the law is comprehensive, its adequacy depends on consistent

⁸⁴ Section 78 and section 79 of the National Environment Act cap 181

⁸⁵ Sisimua.com (<https://sisimua.com/uganda-nema-uncovers-major-environment-violations-at-oil-buster-industry-ltd-two-arrested>).

enforcement, institutional and community involvement. For example Total Energies (Tilenga project) are criticized in the civil society Field Report of 2023 page 22 for failing to adequately manage all environmental risks and social harms including insufficient waste storage. ie. There were no waste bin provisions for visitors at the view point area at the JBRI-5well pad construction site and there was evidence of abandoned plastic waste at the central Processing facility in Bulisa.⁸⁶

National Oil and Gas Policy 2008

This policy was implemented as a result of the need to manage the oil resources to benefit Uganda by leading to Development. The policy came into place with assistance of the Norwegian government which provided funds and technical staff for its formulation. The main goal and purpose of this policy was to enable the country 's Oil and Gas resources to be used in early achievement of eradicating poverty from Uganda to create a lasting value to society , by meeting the needs of their needs of the present generation without compromising the ability of the future generation.

The objectives of the Oil and Gas Policy include; ensuring sustainable development and cooperation between all stake holders which include the government, the people, local communities, civil society organizations etc.

To ensure that oil and gas activities are undertaken in a manner that conserves the environment and biodiversity, oil and gas policy has guiding principles which include using finite resources to create lasting benefits to the society, efficient resource

⁸⁶ Tilenga Field monitoring report 2 by the Civil Society Coalition on Oil and Gas. (The social and environmental compliance assessment for Tilenga oil Project.) (Research Paper Series No. 12 of 2023)

management, transparency and accountability competitiveness and productivity, protection of the environment and conservation of Biodiversity, spirit of cooperation, capacity and institution building.

Policy 6.4 Provides for Impact on the Environment.

Oil and Gas activities in the country can impact the environment from several angles. They may affect human beings, wildlife and biodiversity, together with the associated tourism. Trans- boundary water resources and the economy of the Albertine Graben ecosystem where production is anticipated may also be affected. However the same policy effects that it considers environmental protection to include both physical and social aspects and seeks to mitigate the typical forms of environmental damage and hazards associated with oil and gas exploration.

Long term Sustainability. The policy recognizes the need for balancing oil exploitation with environmental conservation but actual sustainability depends on consistent enforcement and community empowerment.

In conclusion the National oil and Gas Policy 2008 adequately protects the environment on Paper through EIAs, pollution control, biodiversity safeguards and restoration requirements. However, it's **practical adequacy** is challenged by enforcement gaps, institutional weaknesses and limited community involvement.

There is need to strengthen monitoring, transparency and accountability remains crucial for Uganda to fully realize the environmental protections envisioned in the policy.

National Environmental Waste Management Regulations.

These were established following the provisions of the National Environment Act which tasks NEMA to issue guidelines for the management of each category of waste. These apply to the movement of both hazardous and nonhazardous wastes into the environment, its storage and disposal.⁸⁷ They prohibit the disposal of untreated wastes into the environment. They provide for the application for acquisition of a licence by that person intending to transport or store wastes⁸⁸ that measures must be taken by that person to minimize pollution including erection of necessary works and institution of mitigation measures.⁸⁹

With the production of oil in the country, these regulations are important to ensure that wastes from oil refineries is dealt with in a way that will not be harmful to the environment.

National Environment (Environment and social Assessment Regulations of 2020.

Regulation 12 provides for projects which environmental and social impact assessment is mandatory to which the extractive industry is inclusive, true the law makes it a mandate to have an environment and social impact plan but the challenge in Uganda is the enforcement of the environmental laws governing the extraction of oil and gas.

According to report on the impact of the impacts of Tilenga and EACOP. Despite the fact that the National environment (Environment and social Assessment Regulations of 2020 regulation 12 provide for a mandatory environment social impact assessment as a requirement for extraction of oil the social and the EACOP environment impact

⁸⁷ Regulation 3

⁸⁸ Reg12

⁸⁹ Reg 21

assessment conducted were flawed, both in regards to the affected communities and civil society were not properly consulted in regards to the contents of the ESIA.⁹⁰ The risks were not adequately identified and measures to mitigate residual risks and impacts are lacking as illustrated in the Netherland Commission for Environment Assessment.⁹¹

Furthermore, according to the E-tech EACOP Review⁹² the Environment impact Assessment did not contain the preventive measures to minimize the impact on forest reserves or security measures aimed at preventing fires or other accidents nor impacts of the construction of the section of the pipeline that runs through wetlands and rivers especially on the water flow and the communities living downstream of the river. The government must there strengthen their requirement as to the environment impact assessment to indicate several alternatives as to the preservation of the environment in case the first second don't work out.

Production Sharing Agreement.

Article 23. 1 of the PSA effects that the licensee shall conduct all Petroleum Activities in accordance with the Act, regulations, national Environment Act and other laws applicable to minimize the danger of pollution of the environment. This means that if the investors or any company damages the environment shall take reasonable

⁹⁰ Main impact of the Tilenga and EACOP Projects chapter 4 of the Nightmare Named Total (report)(on Uganda and Tanzania)

⁹¹ Review of the environment and social impact assessment Report for the Tilenga project 26th July 2019

⁹² Recommendation to NEMA 26 August 2019

measures to remedy the pollution caused while extracting oil and failure to do so can attract revocation of the extraction license.

In order for international law or any treaty to be applicable in Uganda, it must be ratified in accordance with the ratification of treaties' Act. Some scholars have argued that in addition to ratification the treaty should be domesticated by the parliament. However Professor Tumwine Mukubwa opines that once a treaty is ratified the state is bound by the treaty.⁹³

The following provisions back up the fact that international law is applicable to the Ugandan courts;

Article 287 of the Constitution provides for International Agreements, treaties and conventions.⁹⁴

Where;

a) any treaty, agreement or convention with any country or international organization was made or affirmed by Uganda or the Government on or after the 9th day of October 1962 and was still in force immediately before the coming into force of this constitution.

b) Uganda or the Government was otherwise a party immediately before the coming into force of this constitution to any such treaty, agreement or convention shall not

⁹³ International Human Rights journal by Tumwine Mukubwa.

⁹⁴ 1995 Constitution of Uganda as amended.

be affected by the coming into force of this constitution and Uganda or the government , as the case may be shall continue to be a party to it.

This provision means that the treaties that Uganda entered into or ratified into before the 1995 constitution they shall still be applicable.

Objective 28 Foreign Policy Objectives.⁹⁵

i) The foreign policy of Uganda shall be based on the principles of;

a) Promotion of the national interest Uganda.

b) Respect for international law and treaty obligations.

ii) Uganda shall actively participate in international and regional organizations that stand for peace and for the well-being and progress of humanity.

By virtue of that objective that shows that Uganda has an obligation to participate in international law.

Article 123 of the Constitution provides for Execution of treaties, conventions and agreements.⁹⁶

1) The president or a person authorized by the president may make treaties, conventions, agreements or other arrangements between Uganda and any other country or between Uganda and any international organization or body, in respect of any matter.

⁹⁵ 1995 Constitution of Uganda as amended.

⁹⁶ 1995 Constitution of Uganda as amended.

2) Parliament shall make laws to govern ‘’ ratification of treaties, conventions, agreements or other arrangements made under clause 1 of this Article.

Section 2 of the Ratifications of treaties Act provides for ratification as follows;⁹⁷

a) By the cabinet in the case of any treaty referred to in paragraph b of this section or;

b) By parliament by resolution.

i) Where the treaty relates to armistice, neutrality or peace or

ii) In the case of a treaty in respect of which the Attorney General has ‘’ certified in writing’’ that its implementation in Uganda would require an amendment of the constitution.

Section 3 Ratifications of Treaties provides for signing of the instrument of ratification.⁹⁸

Subject to section 2, the instrument of ratification of a treaty shall be signed, sealed and deposited by the minister responsible for the foreign affairs.

Ratification is the confirmation, adoption or approval of a previous act done either by the party themselves or by another which was not originally binding.⁹⁹

⁹⁷ Ratification of Treaties Act Cap 204.

⁹⁸ [ibid] 112

⁹⁹ Black’s Law Dictionary 11th edition.

International law in order to be applied it must be ratified and later domesticated or incorporated in the Ugandan laws¹⁰⁰

International law in Uganda is binding in through the dualistic approach where treaties must be domesticated by parliament to be directly enforceable.

An example of when the Ugandan courts applied international law is the case of Charles Oyango Obbo V Attorney General¹⁰¹ where Justice Mulenga on page 7 quoted the African Charter on Human and People's Rights which Uganda ratified to on 27th May 1986. The gist of this case was whether section 50 of the penal code Act which makes publication of false news a criminal offence contravenes Article 29 of the 1995 constitution that guarantees protection of the individual right of freedom of expression which includes freedom of press. The facts are that Charles Oyango Obbo and Andrew Mwenda who were journalists and charged of publication of false news that arose when the appellants extracted from a foreign paper called the Indian Ocean Newsletter and published in a Sunday Monitor of 21st September 1997 under a headline that Kabila paid Uganda in Gold, says report. That Kabila of DRC had given a large consignment of gold to the government of Uganda as payment for services rendered by it during the struggle against the former military dictator the late Mobutu Seseko. Court observed that the respondents had the onus to show that the limitation imposed by section 50 on the right to freedom of expression is necessary to prevent prejudice to public interest and that the limitation is acceptable and demonstrably

¹⁰⁰ An article by DR. Kabumba Busingye on how Ugandan courts have approached the issue of international law in adjudicating cases.

¹⁰¹ Constitutional Appeal NO.2 of 2002.

justifiable in a free and democratic society. But in the view of Justice Mulenga the respondents failed to discharge that onus thus the court allowed the Appeal and set aside the decision of the constitutional court.

In coming to that judgment the court used and referred to international treaties and convention that it had ratified to , fore example the African Charter on Human and People's Rights which was ratified to by Uganda on 27th May 1986 which makes it binding within Uganda's dualist system. Therefore the following oil and gas international laws are binding in the Ugandan courts since they were ratified to i.e. .Basel convention was ratified on March 11th/1999, Paris Agreement was ratified on 21st September 2016, Convention on Biological Diversity still ratified on 21st September/ 1993 and the African Charter on Human and People's Rights was ratified on 10th/May/ 1986 this means that all these laws are binding on the extractive industry of Uganda.

Principle 16 of the Rio Declaration provides for the polluter pay principle. This means that the one who pollutes the environment will pay a penalty of polluting the environment.

Convention on Biological Diversity.

This requires Uganda to protect the ecosystem and biodiversity since most oil reserves lie near sensitive areas like the Murchison falls National Park.

Paris Agreement 2015

This obligates Uganda to reduce the greenhouse emissions and adopt sustainable energy practices, influencing oil and gas operations.

Article 2 of the Paris Agreement Aims at strengthening global response to the threat of climate change, in the context of sustainable development. And clause (a) requires the global average temperature to be below 2 centigrade all aiming to limit the temperature increase to 1.5 centigrade.

Basel Convention 1989

This Act governs the hazardous waste management including toxic byproducts from oil extraction. Article 2 of the convention describes environmentally sound management of hazardous wastes or other wastes meaning the party to this convention shall take all practicable steps to ensure that hazardous wastes are not emitted into the environment.

African Charter on Human and People's Rights. (Article 24) effects that all people shall have the right to a satisfactory environment, reinforcing community rights against harmful extraction practices.

UN Sustainable Development Goals. Particularly Goal 13 (climate Action) and Goal 15 (Life on Land) which guide Uganda's environmental policies in oil and gas projects.

In conclusion, despite the fact that Uganda has very strong laws on environment in the extractive industry but these laws have largely failed due to the weak enforcement mechanisms in the environmental laws and this has led to water contamination the oil spills that contaminated Lake Albert.¹⁰²

¹⁰² Albertine oil prospects mingle with water concerns. (<https://www.independent.co.ug>) 2018

Therefore one would say that the extent of observation in practice is mixed and also characterized with a very high compliance in documentation but enforcement is still lacking.

According to the interview I conducted on the inspector of oil and gas projects at NEMA called Jane Rose she informed me that Uganda is still at the development stage and that no production of oil has yet been carried out. But the development stage also generates wastes these include water based mud, synthetic and oil mud.

Before management of oil wastes they are divided into two the Hazardous and non-hazardous chemicals. The Hazardous wastes include chemicals, oil, diesel and the non-hazardous wastes include the domestic wastes. She also mentioned that there is a hierarchy for management of oil wastes that is followed which provided for in Regulation 7.¹⁰³ A person who generates waste, a waste handler or product steward shall manage Waste in accordance with the Act and these regulations through Application of the following hierarchical Waste management practices;

- a) Prevention.
- b) Reduction and recovery.
- c) Re-use.
- d) Recycling.
- e) Other recovery.

¹⁰³ National Environment (Waste Management) Regulations 2020

f) Treatment and

g) Responsible Disposal.

She gave an example of a non-government entity called Enviro serv whose major duty is to handle hazardous wastes and stabilize them so that they become less harmful to the environment. This company provides for a comprehensive collection, transportation and treatment services designed to recycle or safely dispose off used oil. For example Enviro serv was awarded five-year US\$89 million contract to manage all wastes generated during the drilling activities at Total Energies.¹⁰⁴

Recycling. According to the NEMA inspector madam Jane Rose she mentioned that the environment has been protected in the oil and gas sector by encouraging recycling of oil wastes. Recycled waste oils can be reclaimed and re used in various industries rather than allowing it to pollute the environment it's transformed into high quality lubricants, industrial fuels and renewable energy sources.

Treatment of oil wastes.

That once oil muds are used they are transported to Luweero industries for waste treatment. Oil Based mud is separated by a process called Thermo Desorption Unit. This process extracts base oil from cuttings and oil is re-used. It also handles waste treatment plants and engineered landfills treating over 25000 tons of drilling waste to international environment standards.¹⁰⁵

¹⁰⁴ <https://chimpReports.com> (13th November 2022)

¹⁰⁵ From the NEMA OIL inspector and Daily monitor ug.(Thursday 28th November 2024)

Luweero Industries Limited manages oil wastes basically from CNOOC Uganda Limited's Kingfisher field. They use a specialized drilling Waste Treatment and Disposal Facility that shows that NEMA through partnership with other government entities such as those promote proper oil waste disposal thus up holding the principles of sustainable development.

Noise pollution. Noise pollution would have an issue at Luweero industries but it's confirmed by the NEMA inspector that the industry has a high level of technology and has a noise monitoring system.

She also commended most of the oil companies for complying with the national environmental standards since it's a prerequisite for them to acquire funding from the world bank unlike the other sectors like the mining sector of Uganda particularly the Artisanal and small scale mining sector operates in breach of the environmental principles for example in Karamoja 2021 in the gold mine there was poor waste management of contaminated soils and water sources.¹⁰⁶

However, the inspector also notes that waste water is supposed to be disposed off within 30 days and she gave an example of Kingfisher (2024/2025) which had exceeded the 30 days without removing the water waste yet the facility was located on Lake Albert and NEMA served it with improvement Notices as a way of enforcing the environmental principles.

Hydro test water. This is another mechanism NEMA has used in order to preserve the environment from oil leakages which lead to air and water pollution. In this process

¹⁰⁶ Environmental Health and safety intricacies of Artisanal mining (jsm.gig.eu/ journal of sustainable mining).

after pipes have been laid done they test the integrity of the pipes by passing water in them and also clean them up , this helps to identify the leaking pipes before they polluting the environment.¹⁰⁷

The ways which NEMA uses to ascertain whether oil companies promote environmental principles include;

Walk in. This means that the NEMA Compliance inspectors make abrupt visits to the oil companies to ascertain compliance with environmental principles and defaulting may lead to fines or stop orders were necessary.¹⁰⁸

Compliance Valuation inspections and reports which help to ascertain the progress, audit and quarterly reports on how they are managing environmental protection.¹⁰⁹

The challenges NEMA faces to ensure proper management of oil wastes include;

Equipment. Lack of sufficient techlogical equipments to analyze the water, soil, air samples required by the oil companies to comply with thus NEMA relies on external equipments from other government entities which require them to pay a lot of money for the equipments.¹¹⁰

Small Team. NEMA has a very small team responsible for monitoring environmental compliance in the oil and gas sector. This limits effective supervision as to whether the oil companies sufficiently adhere to the environmental principles.¹¹¹

¹⁰⁷ Pursuant to the NEMA interview from inspector Jane Rose.

¹⁰⁸ NEMA Inspector interview.

¹⁰⁹ NEMA inspector's interview.

¹¹⁰ NEMA inspector interview.

¹¹¹ NEMA inspector interview.

Limited funding. There is limited funding to NEMA to inspectors to consistently supervise the environmental compliance in the oil sector.¹¹²

There is also a challenge on the side of the oil companies in not adhering to the environmental principles this is delay in issuing permits, licenses. A committee has to sit before licensing an oil company for example Tangi camp (tilenga) was delayed to be given an operating licence.

Some of the remedies to the challenges faced by NEMA in enforcing compliance with the environmental principles is through corroborative measures with other government entities like districts i.e. Buliisa district, Wild life Authority, Ministry of water and Ministry of Agriculture to help them supervise the oil companies so that they do not divert from the environmental principles and it also helps them reduce on the financial constrains that would require them to visit districts that are extracting oil to ensure compliance with environmental principles like proper oil waste disposal.

¹¹² [ibid] 122

CHAPTER 3

COMPARATIVE ANALYSIS WITH OTHER JURISDICTIONS.

This chapter explored the environmental laws governing oil and gas activities in jurisdictions such as Norway and Nigeria, with a focus on how principles of environmental law are applied in practice. Environmental law is not merely a collection of statutes - it is a framework built on guiding principles that aim to balance economic development with ecological preservation. The effectiveness of these laws depends not only on their existence but also on their enforcement and integration into broader governance systems.

One of the most influential principles is the precautionary principle, it was first articulated in the 1992 Rio Declaration on Environment and Development. Although the declaration itself is not legally binding, it has profoundly shaped national legislation worldwide. The principle insists that when an activity poses potential harm to human health or the environment, preventive measures must be taken -even in the absence of complete scientific certainty. This marked a shift from the earlier “preventive action” approach, which required evidence of harm before intervention. The precautionary principle instead emphasizes risk avoidance: the mere possibility of harm is enough to justify protective measures or steps.¹¹³

Precautionary Principle as a principle of Environmental law dictates that when an activity raises threats of harm to human health or the environment , precautionary

¹¹³ Hand book on environmental law by Kenneth Kakuru.

measures should be taken in order to prevent worse consequences for failing to preserve the environment.¹¹⁴

The Precautionary principle evolved from the earlier principle of “Preventive Action”. It addresses problems of environmental decision making under conditions of scientific uncertainty. Whereas the preventive Action was based on the recognition of the need to act in order to prevent certain harm, the precautionary principle is coupled with the idea of risk avoidance. The mere existence of harm is considered as a sufficient basis for the adoption of preventive measures.¹¹⁵

The major aim for countries like Norway, Uganda for incorporating the precautionary principles in their laws is to boost the protection and conservation of the environment while trying to meet the present needs but incognizance of the future needs. The case studies below prove, reflect and depict how and whether various countries have incorporated the above principles in the effort for protecting and conserving the environment during the extraction of oil and gas. These include the following;

NORWAY CASE STUDY.

Norway’s oil and gas industry began in 1970s with the discovery of Ekofisk field. Since then, the Norwegian continental shelf has become one of the most regulated petroleum regions in the world.¹¹⁶ In the subsequent years several larger discoveries were made, these fields have been and still are very important to the development of the activities on the Norwegian continental shelf. The Norwegian government has over

¹¹⁴ Hand book on Environmental Law in Uganda by Kenneth Kakuru Chapter 1

¹¹⁵ [ibid] 84

¹¹⁶ The oil and gas Law Review Norway 17th November 2020

the past 20years introduced various adjustments in their legal regime in order to attract new players and investors in the Norwegian continent .Today around 40 companies both Norwegian and foreign operate there. What sets Norway apart is it's insistence on embedding environmental and climate considerations into every stage of petroleum policy, often setting standards higher than those seen elsewhere.¹¹⁷

Environmental and climate considerations are integral part of Norway's Petroleum, industry policies, which includes, higher local and global environmental standards than those seen in other countries oil and gas sectors.¹¹⁸

Norwegian Petroleum Act 1996.¹¹⁹

Section 4-4 provides for stipulation of production schedule.¹²⁰

The ministry shall, prior to or concurrently with approval pursuant to section 4-2 or a licence being granted pursuant to section 4-3, approve the production schedule. A production schedule other than that which follows from section 4-1 may be stipulated if warranted by resource management considerations or other significant social considerations.

¹¹⁷ [ibid] 87

¹¹⁸ [ibid] 87

¹¹⁹ Act 29 November 1996 No. 72 relating to Petroleum Activities. And natlex.ilo.org/dyn/natlex2/natlex2

¹²⁰ [ibid]126

Burning of petroleum in excess of the quantities needed for normal operational safety shall not be allowed unless approved by the ministry. (Norwegian Petroleum Director)¹²¹

Section 3- 1 provides for opening of new areas.¹²²

Prior to the opening of new areas with a view to granting production licences , an evaluation shall be undertaken of the various interests involved in the relevant area. In this evaluation, an assessment shall be made of the impact of petroleum activities on trade, industry and the environment, and of possible risks of pollution, as well as the economic and social effects that may be a result of the petroleum activities.¹²³

Chapter 3 of this Act provides for production licences which require impact assessments to measure environmental risks and propose remedies.¹²⁴ These assessments are binding and must be considered before licences are granted, ensuring that environmental concerns are observed.¹²⁵

Chapter 4 of the Petroleum Act. Effects that companies must submit detailed development and operation plans, including environmental assessments for

¹²¹ [ibid] 126

¹²² [ibid] 126

¹²³ [ibid] 126

¹²⁴ [ibid] 126

¹²⁵ [ibid] 126

approval.¹²⁶ These plans are subject to consultations with affected stakeholders, reinforcing transparency and accountability.¹²⁷

Chapter 5 of the Act requires licensees to submit a decommissioning plan to Norway's Ministry of Petroleum and Energy, two to five years before the licence expires or relinquished, or before the use of facility ceases.¹²⁸ This plan is aimed at ensuring a clean-up of the petroleum activities when exploration and production are done. The plan is usually a mechanism of how the used area shall be restored back to prevent environmental degradation.

Chapter 7 of the Act provides for Liability for pollution damage arising from petroleum activities carried out in Norway or inside the outer limits of the Norwegian continental shelf. The licensees will be liable to compensate all the affected areas and persons pursuant to the petroleum Act. This chapter mainly aims at protecting the environment from the adverse effects of pollution in the oil and gas sector in Norway.¹²⁹

¹²⁶ [ibid] 90

¹²⁷ [ibid] 90

¹²⁸ Norwegian Petroleum Act 1996

¹²⁹ [ibid] 99

WORKING ENVIRONMENT ACT NO.62 OF 2005.

Section 1 is to the effect that the purpose of the Act is to secure a working environment that provides a basis for a healthy and meaningful working situation that affords full safety from harmful physical and mental influences and that has a standard of welfare at all times consistent with the level of technological and social development of society.¹³⁰ This in event ensures that an employee of the oil and gas industry is at all times protected and given a healthy meaningful working environment.¹³¹

Section 4 of the same Act provides for requirements regarding the physical working environment in that the work place shall be equipped and arranged in such a way as to avoid adverse physical strain on the employees.¹³² Necessary aids shall be made available to the employees. Arrangements shall be made for variation in the work to avoid heavy lifting and monotonous repetitive work. When machines and other work equipment are being installed and used, care shall be taken to ensure that employees are not subjected to undesirable strain as a result of vibration, uncomfortable working conditions. This further means that when planning and arranging the work, emphasis shall be placed on preventing injuries and diseases. The organization, arrangement and management of work, working hours, pay systems including use of performance - related pay, technology etc. shall be arranged in such a way the

¹³⁰ The Norwegian Working Environment Act (No. 62 of 17th June 2005

¹³¹ [ibid] 140

¹³² [ibid] 140

employees are not exposed to adverse physical or mental strain and that due regard is paid to safety considerations.¹³³

The **Norwegian Working Environment Act** was established to ensure the protection of employees' health, safety, and the environment during hazardous activities in the oil and gas industry. Its provisions reflected a broader commitment to meeting the needs of the present generation while safeguarding the rights and welfare of future generations, thereby aligning with the principles of **sustainable development** and **environmental justice**.

POLLUTION CONTROL ACT NO.6 OF 1981.

The Act established a general prohibition against pollution, stipulating that no individual or entity may pollute unless granted explicit permission under the law or through a decision by the relevant authority. Importantly, the Act also applied to greenhouse gas emissions, thereby extending its scope to climate-related concerns. Within the industrial sector, authorities were empowered to impose technology requirements as conditions under the Act, particularly in relation to climate emissions. These provisions were designed to ensure minimum environmental standards for facilities such as landfills, while also regulating the handling of specific waste fractions. In this way, the Act provided a comprehensive framework for environmental protection¹³⁴

¹³³ [ibid] 140

¹³⁴ Norwegian Pollution Control Act of 13 March 1981 No. 6

Section 13 of that Act effects that any person that is planning any activity which may involve serious pollution at a new site or significant developments of a new character at a site where there is existing activity shall at an early stage of the planning process send notification to the pollution control authority which shall decide that the person must carry out a mandatory environmental impact assessment.¹³⁵ The environment impact assessment shall normally include a study of which types of pollution the activity will generate during normal accidents , and the likelihood of such danger that the petroleum activities will cause to the environment and how such dangers can be avoided or catered from thus protecting the environment.

Chapter 8 of the Pollution Control Act provides for compensation in regards to pollution damage.¹³⁶ This means that the owner of real property, an object, an installation or an enterprise that causes pollution damage is liable to pay compensation to the affected people.¹³⁷

Climate Change Act 2018 (Supports the implementation of Norway's climate policy of moving to a low emission society by 2050 .This also aims to promote a transport and public debate on the status , direction and progress of efforts towards that end.

Act No.6 concerning Protection against pollution Control Act 1981. This was intended to protect the environment from pollution , reduce the quantity of waste and promote better waste Management .It aims to ensure that pollution and waste do not

¹³⁵ [ibid] 108

¹³⁶ [ibid] 108

¹³⁷ [ibid] 108

damage human health or affect the welfare of or damage , the natural environment 's productivity and self - renewal capacity.¹³⁸

NIGERIA CASE STUDY.

Nigeria can easily be compared with other African countries. The country has a comprehensive environmental legal framework based on the 1999 constitution and enforced by agencies such as the National Environment Standards and Regulations Enforcement Agency (NESREA). Laws cover environmental impact assessments, waste management, gas flaring and biodiversity protection.¹³⁹

However, the challenge lies in enforcement. While Nigeria has statutes such as the Harmful Waste Act, the Associated Gas Re- Injection Act and the Endangered Species Act, weak enforcement mechanisms often undermine their effectiveness. Oil spills, gas flaring and poor waste management remain widely spread, particularly in the Niger Delta where people suffer from Air pollution.

These laws are further explained separately below;

NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY ACT 2007.

¹³⁸ <https://flaringventing.regulations.worldbank.org/Norway#>:

¹³⁹ Kaniye S.A Ebeku oil and the Niger Delta People in international Law Resource Rights, Environmental and Equity issues 2006

Nigeria passed the environmental Protection Agency Act. (FEPA) in 1988, establishing the country's first agency responsible for protection and management of the environment.¹⁴⁰

The FEPA was repealed in 2007 by the National Environmental Standards and Regulations Enforcement Agency Act (NESREA act) .The Act established the National Environment Standards and Regulations Enforcement, biodiversity conservation and sustainable development of Nigeria's oil.

¹⁴⁰ Kaniye S.A Ebeku , oil and the niger Delta People in international Law Resource Rights, Environmental and Equity Issues 215(2006) quoting the National Environment (1989)

CHAPTER 4

RECOMMENDATIONS.

The effectiveness of any law lies in its ability to achieve its stated objectiveness. In Uganda, the regulatory framework governing oil and gas has made significant strides, but gaps remain particularly in environmental protection. Oil extraction is a double-edged sword: it promises economic growth, yet it threatens ecosystems and communities if not carefully managed.

This chapter looks at the possible reforms in the oil industry in preservation of the environment.

These are the recommended mechanisms for strengthening Uganda's oil and gas regulatory framework;

The parliament should enact more laws towards environmental management in the region. The Petroleum (EDP) Act which was enacted is directed more towards issues of the mechanisms involved and states little on the environment front. It for example deals with licenses, how to make applications for licenses and what is to be considered before they are granted.

Parliament should enact additional legislation to strengthen environmental management within Uganda's oil-producing regions. The **Petroleum (Exploration, Development and Production) Act of 2013** provided a cornerstone framework for regulating petroleum activities, its focus was largely directed toward procedural mechanisms such as licensing, application processes, and the criteria for granting exploration and production rights. The Act offers limited provisions on environmental

protection, leaving significant gaps in addressing ecological sustainability and community participation. Strengthening environmental legislation would therefore be essential to balance economic interests with ecological preservation and social justice in Uganda's oil and gas sector.

There is need to pay specific attention to the forms of pollution that may be experienced only in this region, the activities that pose environmental degradation. This will help ensure that there are set guidelines dealing with the risks posed by the oil activities.

There should be need to pay specific attention to the forms of pollution unique to Uganda's oil-producing regions, as well as to the activities most likely to cause environmental degradation, policymakers could ensure that oil operations are conducted responsibly, thereby promoting sustainable resource management.

There is need for strict legal action in cases of non-compliance with the law. Where individuals fail to apply the principles set out in the law, there is a need to impose punishments upon them. This also applies in cases of companies which fail to comply with the standards that have been set upon them for example restoration of areas, decommissioning and failure to adhere to the pollution levels provided for them. This will act as a deterrent for other groups that may have taken the same action .The courts therefore need to be alive to the fact that there is need for a strict enforcement of a strict enforcement of the environmental laws.

There was a pressing need to sensitize individuals in communities located near oil extraction sites on how best to protect their environment, and by extension, their

health and livelihoods. Community members needed to be actively involved in restoration activities and equipped with knowledge about the risks posed by oil operations to their lives. Structured awareness programs, including seminars and training sessions.

To be more particular regarding the recommendations they are further broken down into; Legal and institutional Authorities.

1. National Environment Management Act and NEMA. It ensures compliance with environmental laws and mitigates the environmental impacts of oil extraction. The lead pioneer in the protection of the environment is the National Environment Management Authority (NEMA)

Recommendation.

Enforcement of rigorous environmental and social impact Assessments (ESIAs) strategic Environmental Assessments (SEAs) and Environmental Audits for all up- stream and Mid-stream projects, require project- specific Environmental and social Management plans. (ESMPs) with measurable targets and penalties for non- compliance should be put against the oil companies in order to protect the environment.

2. Petroleum Acts and PAU regulations.

The lead body here is the Petroleum Authority of Uganda. (PAU) that is responsible for regulating the oil exploration activities and also ensure to end production and cessation of petroleum activities and decommissioning.¹⁴¹

¹⁴¹ Petroleum(Exploration , Development and Production) Act Cap 161 (Section 10)

Recommendation.

PAU should condition licenses on best available technology, Zero routine flaring and venting , robust spill preparedness and verified methane emissions measurements, reporting and verification , which require independent verification and transparent publication of compliance data.

3. Uganda Wild Life Authority Stewardship in protected Areas.

The Uganda Wild Life Authority manages and conserves Uganda's diverse wildlife and protected areas (National Parks Reserves , sanctuaries) by enforcing laws, fighting poaching , monitoring ecosystems, promoting tourism , managing human -wildlife conflict and engaging local communities for sustainable development , ensuring Uganda's rich biodiversity benefits current and future generations.¹⁴²

Recommendations.

The Uganda Wild Life Authority should apply strict site selection (avoidance first) biodiversity action plans and no net loss/ positive- gain standards where avoidance isn't possible, integrate corridors for wildlife movement and seasonal restrictions aligned with species behavior.

4. Transparency and Accountability Platforms.

¹⁴² Section 6 of the Wildlife Act and Uganda Wildlife Authority Handbook on Good Community Conservation Practices (December 2021)

The lead bodies responsible for these are PAU, Ministry of Energy , Office of the Auditor General .These bodies should publish contracts revenue flows and environmental performance indicators to strengthen accountability and deter harmful shortcuts that would in the end be harmful to the environment.

However it's not in dispute the government of Uganda has put in place some environmental and social safe guards . While Uganda's oil sector holds vast potential , it also brings with it, significant environmental and social challenges. The extraction of oil often requires navigating delicate ecosystems, and oil operations can have far reaching consequences for local communities. Thus Uganda has put in place several safe guards to mitigate these risks.

Companies operating in the oil sector are required to conduct environmental impact assessments (EIA) before beginning projects. The EIA evaluates the potential environmental impacts of the proposed operations, ensuring that companies take the necessary steps to minimize damage to the environment .This includes ; measurements to prevent pollution, manage waste and protect Uganda's Rich Biodiversity.

A model for sustainable oil development. Uganda's Legal and regulatory frame works are designed not only to promote the country's economic growth but also to ensure that oil development is done sustainably. By prioritizing transparency , local content and environmental protections Uganda seeks to create a model for responsible resource management in Africa.¹⁴³

¹⁴³ Local Capacity in the oil and gas sector. (IEC- Industry Enhancement Centre.)

However Uganda should be able to pick a leaf from countries like Norway in the preservation of the environment in the extractive industry .

Norway has adopted a mix of strict environmental regulations, emissions reduction targets and transition strategies to balance oil extraction with environmental preservation. These include cutting greenhouse gas emissions by 55% by 2030, investing heavily in carbon capture and storage (CCs) electrifying off -shore platforms and planning a gradual phase out of oil and gas while expanding renewable energy industries.¹⁴⁴

The European Commission ‘s proposal for a 90% reduction in emission by 2040 will mean that demand for gas will fall by 66% compared to current Levels . Given the 90% reduction in emissions, contracted gas from the E.U. It’s so promising that Norway and Algeria are already sufficient to meet gas demand in 2040.

Uganda should adopt emission reduction targets similar to the **European Commission’s 2040 proposal**, which aims for a 90% cut in greenhouse gas emissions and a corresponding decline in gas demand. By setting phased national targets—such as reducing emissions by 60-70% by 2040—Uganda could gradually decrease its reliance on fossil fuels while simultaneously investing in renewable energy sources like solar, hydro, and wind. Integrating these targets into existing legislation, such as the **National Environment Act**, would strengthen environmental governance, promote energy security, and align Uganda with global best practices in climate policy. This approach would not only mitigate the ecological risks associated with oil and gas

¹⁴⁴ Green European Journal .Smoke and Mirrors of Norway’s Climate Action. (Smoke and Mirrors of Norway’s Climate Action.) <https://www.greeneuropeanjournal.eu>.

exploitation but also ensure that economic development is pursued in a way that safeguards the needs of future generations.¹⁴⁵

(Which permits abandonment of infrastructure in special cases.) It is the ministry of Energy that decides on disposal and licensees/ owners.¹⁴⁶

The Ugandan government should also adopt the following in order to reduce the environment pollution created by oil and explorations;

Looking at other countries like Norway they have created commitments aiming at Emission Reductions. Norway has pledged to cut greenhouse gas emissions by 55% by 2030, which aligns with the E.U climate targets offshore oil platforms that are being electrified to reduce reliance on gas turbines, lowering CO2 emissions. Uganda government must put a directive to emit 40% by 2030 in that it will reduce on the greenhouse gas emissions. When the government through its supporting bodies like NEMA to enforce the same.

Strict Environmental Regulations. The Norwegian off-shore Directorate, enforces strict environmental standards for drilling and extraction companies must conduct environmental impact assessments before exploration and extraction. The government of Uganda should enforce strict environmental standards through being strict on the prerequisite of environmental impact assessments. Which is still a challenge in Uganda since it's affected by corruption in confirming of the existence of

¹⁴⁵ [ibid] 62

¹⁴⁶ A phase out plan for Norwegian oil and gas. (A stepwise transitions towards 2040) published on August 27th/ 2024.) (<https://mdg.no>)

these environmental impact assessments by the foreign oil companies before the exploration. Thus the Ugandan government through NEMA should put a more strict laws regarding that issue, in that they will have adhered to protection of the environment in the extractive industry.

Global Climate Contributions. Norway funds rainforest protection programmes abroad to offset emissions. The country also promotes electric vehicle adoption, reducing domestic oil demand. All such creative ideas of trying to eliminate or do away with use of fuel by vehicles and instead use electric vehicles, such innovative ideas promote the preservation of the environment in the extractive industry especially at the downstream stage.

Still looking at how Norway does it by funding rainforest programmes this curbs or reduces on the pollution levels/ emissions that are emitted into the environment while at the different levels of extraction of oil either at the upstream stage, mid-stream and downstream. Such mechanisms of preservation of the environment in the extractive industry.i.e Uganda can adopt the funding of rainforests which contributes to the environment's maintenance and preservation.

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