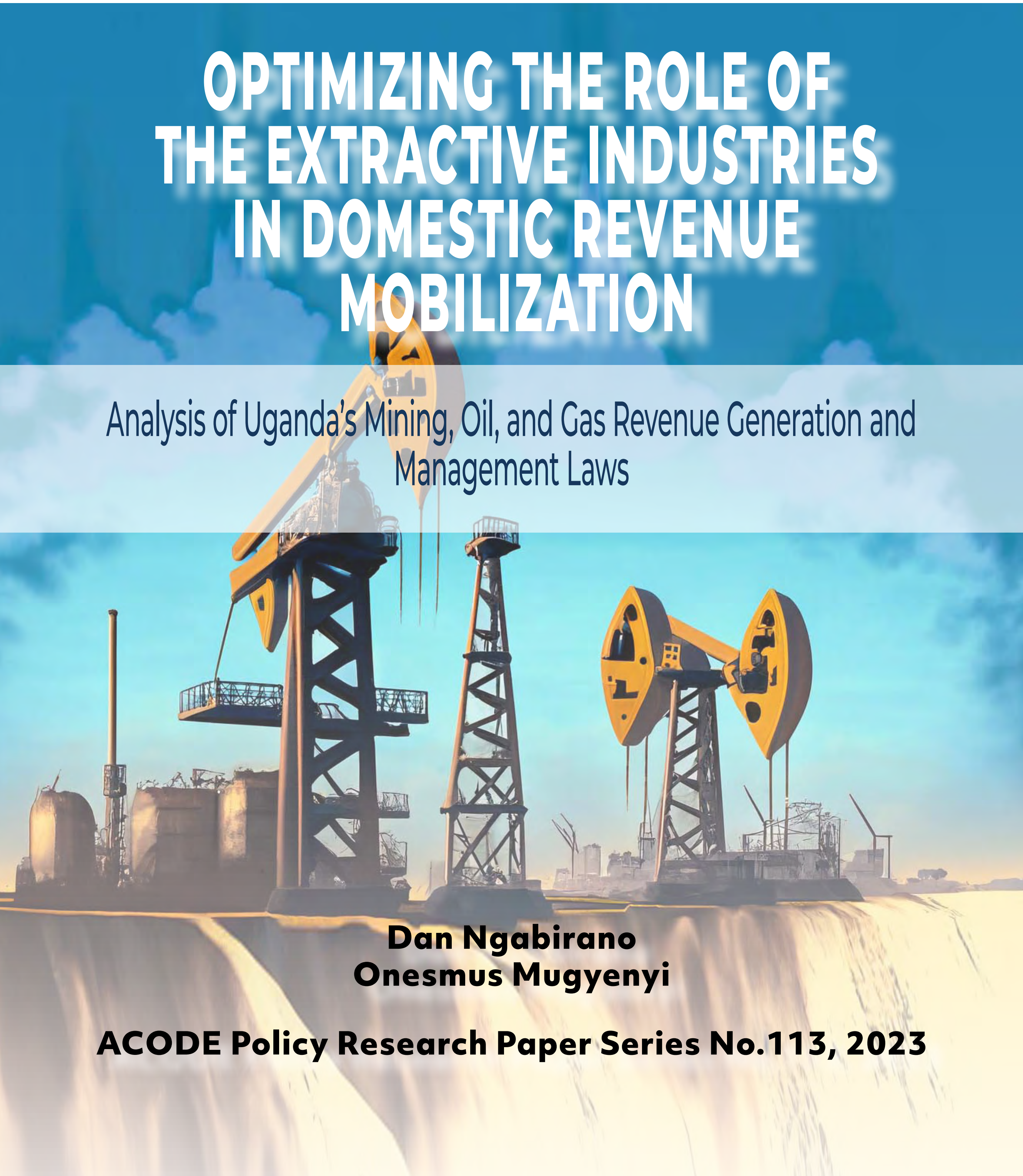
OPTIMIZING THE ROLE OF THE EXTRACTIVE INDUSTRIES IN DOMESTIC REVENUE MOBILIZATION

Analysis of Uganda's Mining, Oil, and Gas Revenue Generation and Management Laws



Dan Ngabirano
Onesmus Mugyenyi

ACODE Policy Research Paper Series No.113, 2023

Disclaimer:

This policy research paper is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents of the policy research paper are the responsibility of the Advocates Coalition for Development and Environment (ACODE) and do not necessarily reflect the views of USAID or the United States Government.

OPTIMIZING THE ROLE OF THE EXTRACTIVE INDUSTRIES IN DOMESTIC REVENUE MOBILIZATION

Analysis of Uganda's Mining, Oil, and Gas Revenue Generation and Management Laws

Dan Ngabirano
Onesmus Mugyenyi

ACODE Policy Research Paper Series No.113, 2023

Published by ACODE

P. O. Box 29836, Kampala

Email: library@acode-u.org; acode@acode-u.org

Website: https://www.acode-u.org

Citation

Ngabirano, D. and Mugyenyi, O. (2023). *Optimizing the Role of the Extractive Industries in Domestic Revenue Mobilization: Analysis of Uganda's Mining, Oil, and Gas Revenue Generation and Management Laws*, Kampala: ACODE Policy Research Series, No. 113.

ISBN 978 9970 56 736 2

CONTENTS

LIST OF TABLES AND FIGURES

ACRONYMS

ACODE	Advocates Coalition on Development & Environment
ASM	Artisanal and Small-Scale Mining/Miners
BOU	Bank of Uganda
CGT	Capital Gains Tax
CSCO	Civil Society Coalition on Oil and Gas
CIT	Corporate Income Tax
CNOOC	China National Offshore Oil Company
DGSM	Directorate of Geological Survey and Mines
DRM	Domestic Resource Mobilization
DRMS	Domestic Revenue Mobilization Strategy
EITI	Extractive Industries Transparency Initiative
FID	Final Investment Decision
GDP	Gross Domestic Product
HOGL	Heritage Oil and Gas Ltd
IAC	Independent Advisory Committee
LST	Local Service Tax
MNEs	Multinational Enterprises
NRGI	Natural Resource Governance Institute
NRM	National Resistance Movement
OECD	Organisation for Economic Cooperation and Development
PAU	Petroleum Authority of Uganda
PAYE	Pay As You Earn
PRIR	Petroleum Revenue Investment Reserve
SDGs	Sustainable Development Goals
SPA	Sale and Purchase Agreement
UGEITI	Uganda Extractive Industries Transparency Initiative
URA	Uganda Revenue Authority
USD	United States Dollar
VAT	Value Added Taxes

ACKNOWLEDGEMENTS

Domestic revenue mobilization is important for governments, as it provides funds needed to finance development, alleviate poverty and deliver public services. Domestic revenue mobilization is also a critical step on the path out of aid dependence. Uganda’s Domestic Revenue Mobilization Strategy recognizes the strategic role and potential contribution of oil, gas, and mineral revenues to national development. Based on this background, this study set out to analyze the various laws, policies, and practices relevant to Uganda’s extractives, identify the gaps that inhibit revenue mobilization, and make recommendations.

The study was undertaken with financial support from USAID Domestic Revenue Mobilization for Development (DRM4D) Activity. We therefore wish to extend our gratitude to the project for the financial support.

The research team appreciates the time accorded to this study by different stakeholders in Kampala, Hoima, Mubende and Buliisa, who provided useful information that informed the paper.

We are also greatly indebted to ACODE research team that reviewed the initial draft and provided useful comments that guided the finalization of the paper.

EXECUTIVE SUMMARY

Dwindling aid and more recently the devastating effects of the COVID-19 global pandemic have rendered many African countries socially, politically, and economically vulnerable. Many are unable to effectively provide basic goods and services for their people, and their ability to pursue long-term development goals has been severely undermined. Given this situation, several African governments continue to fall behind in honouring their global commitments such as those made under the UN Sustainable Development Goals (SDGs) and the various regional and international human rights treaties that they are party to. To bridge the current funding gap, several African countries have turned to extensive borrowing with even more damaging consequences.

In the face of this crisis, African countries have been urged to embrace and, in some instances, enhance their domestic revenue mobilization efforts as a more reliable and sustainable option. Uganda has heeded this call and in 2019, the country adopted a five-year Domestic Revenue Mobilization Strategy (DRMS). The key objective of this strategy is to improve revenue collection and lift the country's tax-to-GDP ratio to between 16%-18%. More critically, DRMS recognizes the strategic role and potential contribution of oil, gas, and mineral revenues to national development. The DRMS underlines the need for the development of a strong extractive industries taxation fiscal regime. Given this reality, this study was conceived and set out to review and analyze the various laws, policies, and practices relevant to Uganda's extractive industries fiscal regime, and to establish the extent to which these may enhance revenue generation, management, and equitable sharing of resource wealth. While focused on petroleum revenue generation, management and sharing in the Albertine region districts of Hoima, Buliisa and Kikuube, the study refers to experiences from gold mining in Mubende district. In this regard, the study established that gold mining in the district has for the most part been informal and unregulated. For this reason, both the central government and Mubende district local government have not been very successful in generating critical revenues from the largely artisanal and small-scale miners-dominated sector. Secondly, where revenue has been realized from gold mining in a few instances, it has been paid to the central government with less benefit to the district local government.

Although the central government is by law required to remit a percentage of the realized royalties to the local government where the minerals have been sourced, Mubende district had received its share only once in a period of more than ten years of gold mining as at the time of this study. Even then, the amount received was less than UGX 10 million (USD 2,857) and no explanation was provided to the district as to how this amount was arrived at. This is of serious concern and goes to show that revenue sharing in the context of mining is opaque and not very effective.

In the petroleum sector, Uganda has so far earned revenues close to USD 1 billion. The biggest chunk of the revenue has been realized from the taxation of capital gains made on the transfer of assets and interests by international oil companies. This is a critical achievement considering that the country is yet to commence commercial oil production. The country's oil and gas revenue prospects were further brightened by the announcement of the Financial Investment Decision (FID) by key partners in Uganda's oil sector in February 2022. This is expected to further unlock an estimated USD 10 billion in investment capital. All these developments show that Uganda is on the right path to optimization of its oil and gas revenues.

Moreover, a review of the laws and policies relating to oil and gas revenue generation, management and sharing shows that they are relatively comprehensive. The laws contain robust provisions for the taxation of companies and other persons involved in the sector. In addition, the sector is subject to payments of other forms of non-tax revenue in the form of royalties, institutional fees, rent, bonuses, and contributions. These are all critical sources of revenue generation in the sector. This said, there still exist risks which if not urgently addressed could cause substantial revenue leakages. Some of these risks arise from existing Double Taxation Agreements (DTA's) that have become abuse instruments and provide avenues for aggressive tax avoidance and tax evasion by Multi-National Enterprises (MNEs) in the sector. Secondly, stabilization clauses contained in some of the existing Production Sharing Agreements (PSAs) limit the ability of the state to pursue tax and other reforms required for revenue maximization.

Regarding revenue management, the law provides for a Petroleum Fund into which all oil and gas revenues must be paid. All withdrawals from the Fund require the approval of Parliament and a warrant of the Auditor General. Besides the Fund, the law has equally provided for the establishment of a Petroleum Revenue Investment Reserve (PRIR) into which part of the appropriated funds must be deposited for investment purposes. While all this is critical, there was a delay in the enactment of a fiscal rule to guide the appropriation and transfer of funds from the Fund. In the absence of the fiscal rule, most of the realized petroleum revenues have been spent on budgetary support and so far, no funds have been appropriated for investment purposes. This is of concern and exposes the country to risks associated with oil windfalls. Related to this, there is presently no mechanism for verifying petroleum revenue expenditures to ensure that they have been spent on infrastructure and development projects as stipulated by law. This is equally a huge risk considering that the country has so far spent slightly over UGX 580 billion from the petroleum fund on unspecified budgetary activities. Prior to this and before the Fund was established, USD 620,582,750 was spent on budget support still without a clear explanation of the specific activities funded. The other challenge relates to delays in the approval of the relevant petroleum revenue investment framework and the operationalization of the PRIR.

Concerning revenue sharing, the study observed that although there presently exists a prescribed royalty-sharing formula, there are discrepancies in the sharing proportions provided for oil and gas revenues and those for mining. The local governments' share in petroleum and mining royalties is 6% and 15% respectively. No justification has been provided as to why the share proportion is different. Secondly, there are concerns about delays and a lack of transparency in the transfer of royalties to local governments.

Considering these above-mentioned challenges faced in the oil, gas and minerals revenue generation, management and sharing, the study makes the following recommendations.

Central Government and MDAs

The appropriation and expenditure of petroleum revenues should be guided by the recently enacted fiscal rule. This is a multi-year constraint on overall government finances as defined by a numerical target. If followed, fiscal rules promote macroeconomic stability and help guard against economic distortions caused by oil and other natural resource windfalls. In the absence of a fiscal rule, the Minister of Finance has had the discretion to determine the amount of petroleum revenues to be spent. This increases the risk of wasteful expenditure and may put the country at risk of economic distortions that are often associated with oil windfalls.

There is a need for further support to URA to enhance its capacity to enforce and collect taxes from especially powerful international oil, gas, and mining companies. In particular, the current international tax unit within the URA should be expanded and empowered to detect and guard against the practice of multinational enterprises in the extractive sectors manipulating tax rules to pay less than their fair share of taxes.

There is a need to renegotiate PSAs which contain restrictive provisions in the form of stabilization clauses intended to limit the capacity of the state to introduce reforms for maximization of resource revenues even when it is clear that the circumstances under which these agreements were signed have since changed.

Similarly, the government of Uganda should expedite the renegotiation of all existing DTAs that seek to give multinational oil, gas, and mining companies an unfair advantage. Uganda should follow the examples of other African countries including South Africa, Rwanda, Malawi, Zambia, and Senegal all of which have successfully renegotiated some of the restrictive and harmful DTAs.

The government should publish all past and current oil and mining resource agreements. Since Uganda was admitted as a member of the EITI in 2020, it is now mandatory to publish all future oil, gas, and mining agreements.

The government should also regularly publish detailed and disaggregated records of all revenues earned from the country's minerals, oil, and gas resources. Currently, there is no regular mechanism for citizens to access information on payments received by the Uganda government from the extractive industries.

The government should introduce a dedicated law for the operationalization of the principles and standards set under the Extractive Industries Transparency Initiative (EITI). Although Uganda is currently an EITI member, most of the standards cannot be effectively implemented in the absence of a specialized EITI law. The enactment of a dedicated law makes it possible for the various EITI standards to be legally enforced.

The Ministry of Energy and Mineral Development should develop a Model Mining Agreement. The Model agreement should be approved by Parliament, and thereafter it should be publicized and used as a basis for negotiations between the government and prospective mining companies. It is also important that all future negotiations over Uganda's oil and gas resources with international oil companies should be guided by the 2016 Model Production Sharing Agreement and the details of these negotiations should be published.

To enhance community benefits from extractive revenues, the Government should consider enhancing the current share of royalties required to be paid to local governments. This is critical to fund the increased responsibilities of local governments in areas where oil, gas and minerals are found. The current arrangement of decentralization of responsibility without funding defeats the spirit of decentralization.

The government should urgently finalize the petroleum revenue investment framework by among other things approving the framework and operationalizing the Petroleum Revenue Investment Reserve (PRIR) and ensure that all investments are made in a manner that does not jeorpadize the country's macroeconomic stability.

The government should develop a mechanism for tracking and verification of expenditure of revenues appropriated from the petroleum fund. This will ensure that such revenues are spent following the provisions of the law that require all appropriations from the fund to be utilized for infrastructure and development projects of the government and not on recurrent expenditure.

Like oil, minerals are a finite resource and the revenues generated should be wisely invested to benefit the present and future generations. It is necessary therefore to establish a separate Fund for the management of mineral revenues as is the case with oil and gas revenues. The Fund can be legally established under the Public Finance Management Act, 2015 (as amended).

The government should guide the utilization of royalties from extractives. It is necessary to initiate an amendment to the Public Finance Management Act of 2015 to introduce funding conditionalities on the expenditure of the local government's share of royalties from oil, gas, and mining. Local government should utilize their shares for the implementation of locally beneficial projects and not on administrative costs as is often the case. This will ensure that the purpose for which the law was passed is fulfilled i.e., to benefit communities found in areas where petroleum activities take place. Such a step will also help build trust and accountability.

Local governments play a very critical role in regulating the environment in the context of the extractive industries. Currently, local governments are less involved in the process of conducting and monitoring the implementation of environmental impact assessments and mitigation measures, and yet they are in a better place to monitor environmental abuses. This said, local governments should be supported to execute their environmental impact monitoring role.

Government should ensure frequent and regular disbursement of shared revenues. All royalties due to local governments and to landowners should be paid promptly with disclosures of the total amounts received, periods for which the revenues are received and how the shares were arrived at.

The government should undertake an audit of all stakeholders involved in the mining sector for purposes of effective regulation. This process should be accompanied by deliberate attempts to regularize and regulate the Artisanal and Small-Scale Mining (ASM) sector. While the new law provides for the regularization of ASM, the provision is yet to be operationalized. This is critical for the development of this sector and has the potential to enhance the amount of revenue collected. The formalization of the ASM will also ensure that the sector is better organized and able to respond to environmental risks that arise from rudimentary mining practices. Short of this, revenues earned from the sector will instead of being utilized to undertake development programmes be spent on future environmental restoration.

Parliament

Parliament should require the Ministry of Finance, Planning and Economic Development to develop a revenue expenditure verification mechanism before making any appropriations from the Petroleum Fund. Lack of effective revenue expenditure control mechanism not only threatens macroeconomic stability and fiscal discipline but also affects the integrity of the public financial management system and undermines trust in the government as a custodian of public resources.

Parliament should demand tabling of EITI reports before Parliament for oversight on the implementation of recommendations. The relevant Minister should periodically provide an update on the status of implementation of the recommendations from these reports.

Parliament should insist on the tabling and discussion of EITI reports. The relevant minister should periodically report on the status of implementation of the recommendations of various EITI reports. If parliament does not provide oversight on the implementation of EITI, the process will be rendered useless.

Local Governments

Local governments should strictly spend their share of royalties and other resource revenues received on locally beneficial and development projects, rather than on administrative costs. Local governments through their various structures should lobby the central government for funds necessary to recruit more specialized professionals in mining and oil and gas, especially concerning districts that fall within the mining and oil and gas regions.

Besides taxation, local governments should leverage other sources of extractive revenues. These include the different forms of fees required to be paid under the law such as building permits, occupational permits, and other levies.

Oil, Gas and Mining Companies

Oil, gas, and mining companies should embrace responsible business practices that among others, promote tax compliance, environmental safety, and the social well-being of the communities in the areas where they operate. Extractive companies should also publish a regular, clear, and comprehensive record of all resource payments made to the government of Uganda.

1.0 INTRODUCTION

Decline in development assistance, widespread corruption, governance deficits, and most recently the devastating effects of the COVID-19 global pandemic have severely affected the ability of several African countries to meet the needs of their present and future populations. Most of these countries are unable to fund critical development programs and to honor commitments made at the regional and international levels. These include the United Nations Sustainable Development Goals (SGDs) as well as obligations set out under the various regional and international human rights treaties that they have ratified. This has implications for access to critical services such as health and education and there is fear that continued failure to honor domestic obligations and international commitments by countries will result into a significant portion of Africa's population falling below the poverty line.

Uganda has not been spared the challenges that have befallen the rest of Africa and the country is constantly grappling with acute revenue shortfalls and budgetary deficits. In FY 2019/20 for instance, the country registered a revenue shortfall of UGX 3.2 trillion. In FY 2020/21, the revenue shortfall was UGX 2.2 trillion. When studied further, it is clear that these revenue shortfalls were responsible for budgetary deficits of 7.1% and 9% respectively.[1] To address current revenue shortfalls, the government has turned to different forms of borrowing which has resulted in a sharp rise in the country's debt to GDP ratio over the last few years. During a five-year period i.e., FY 2014/15 to FY 2018/19, the country's debt to GDP ratio rose from 26.2% to 36.1%.[2] By the end of FY2021/22, the public debt to GDP ratio had shot to 51.6%.[3] The untamed appetite for public borrowing is of huge concern. In many African countries, public borrowing comes with rather severe consequences.[4] There has been a growing movement and call on African

1 Budget Strategy for FY 2023/24, National Budget Conference, Ministry of Finance, Planning and Economic Planning, September 13, 2022.

2 Domestic Revenue Mobilisation Strategy 2019/20 to 2023/24, Ministry of Finance and Economic Planning, October 2019.

3 Supra, Note 1.

4 Africa: The Rising Debt Burden Highlights the need for Further Progress in Domestic Revenue Mobilisation, Organisation for Economic Cooperation and Development, December 15, 2021. Available on https://www.oecd.org/ctp/tax-policy/africa-the-rising-debt-burden-highlights-the-need-for-further-progress-in-domestic-revenue-mobilisation.htm#:~:text=The%20report%20includes%20a%20special,tax%20

countries to embrace and enhance domestic revenue mobilization as a more reliable alternative to debt financing.[5]

In response to these calls and to address current funding challenges, Uganda adopted a five year Domestic Revenue Mobilization Strategy FY 2019/20- FY 2023/24 (DRMS) in October 2019. The core objective of this Strategy is to improve revenue collection and lift the country's tax-GDP ratio from the current 13% to between 16%-18% within a period of five years.[6] The DRMS is hinged on the strategic role and potential contribution of natural resource revenues (oil, gas, and minerals) to national development. In this regard, the DRMS advocates for the development of a strong extractive industries taxation regime.[7] This action is required to be complemented by empowerment of a capable workforce with a sound understanding of the fiscal regime.[8] Further still, the DRMS recognizes that the extractive industries should be taxed in *"a manner that meets the changing conditions in the mining industry and compliment the interests of government and business in the oil and gas sector."*[9]

Undoubtedly, the extractive industry has the potential to transform the Ugandan economy and to positively impact the lives of citizens while at the same time shielding the country from current funding challenges and the associated consequences. It should be recalled that at the height of copper and cobalt production in the late 1960's and early 1970's, the mining sector was responsible for close to 30% of the country's Gross Domestic Product (GDP).[10] Although the economic contribution of minerals has dwindled over the years (largely because of years of political turmoil), the sector currently employs (directly and indirectly) an estimated 20% of Ugandans.[11] Gold in recent years has overtaken traditional commodity exports like coffee to become Uganda's leading export. In the FY 2020/21, gold accounted for more than 40% of Uganda's total exports.[12] Overall, the URA collected UGX 374.9 billion and UGX 16.005 billion from the mining sector in FY 2019/

levels%20over%20this%20period

5 Ibid

6 Domestic Revenue Mobilisation Strategy, 2019 at pg.13

7 Ibid, at pg.71

8 Ibid, at pg. 116

9 Ibid.

10 Uganda's Mineral and Mining Subsector: What can be Done to Harness its Full Potential? Budget, Monitoring and Accountability Unit, Briefing Paper 12/19

11 Ibid.

12 Bank of Uganda Annual Report 2020/21 at pg.193

20 and FY 2020/21 respectively.[13] Recent reforms of mining laws are expected to further boost the production of gold and other minerals and to enhance sector revenues.

Similar revenue and economic prospects exist in the more recent and still evolving oil and gas sector. Even though Uganda is yet to commence commercial production, the country has already realised some early revenues from the sector. So far, Uganda has earned close to USD 1 billion from the petroleum sector.[14] More than half of this i.e., USD 662 million has been realised from the taxation of gains made on the sale of assets and interests by oil companies.[15] The other revenues realised from the sector so far constitute of several other forms of income taxes such as withholding taxes on payments of professional fees, corporate income taxes, stamp duties, fees, and other institutional payments. In addition to this, the recent announcement of the Final Investment Decision (FID) by Total E&P and their partners are anticipated to unlock investment capital worth USD 10 billion over a period of 3-5 years.[16]

The above stated positive economic prospects and the potential of oil, gas and mineral earnings to enhance Uganda's domestic revenue mobilisation efforts notwithstanding, experiences from other equally resource-endowed countries have shown that the extractive industries, if not properly managed, may become a curse rather than a blessing.[17] For this reason, there is need for caution when dealing with these resources. Deliberate efforts must be made to ensure that the country's oil, gas, and mineral revenues are managed in a transparent and accountable manner. Secondly, the benefits from the resources should be shared in an equitable manner that guarantees the interests

13 Uganda Extractive Industries Transparency Initiative Report for Fiscal Year 2019 – 20, DT Global, May 2022, at pg.14. See also Uganda Extractive Industries Transparency Initiative Report for Fiscal Year 2020-21, June 2023, DT Global, June 2023 at pg. 161.

14 Bank of Uganda Annual Reports FY 2015/16 – FY 2020/21

15 Ibid

16 Announcement of the Final Investment Decision brings Uganda Closer to First Oil, Petroleum Authority of Uganda See also Historic: Final Decision on $10billion Uganda Project, The Independent, February 1, 2022. Available on https://www.independent.co.ug/historic-final-decision-on-10bn-uganda-oil-project/

17 This is also known as the Resource Curse Phenomenon- defined as a situation where countries with abundant natural resources realize less economic development than those without or with less resources. See Natural Resource Governance Glossary, NRGI, Februa, 2017.See also Ross, Michael L., "The Political Economy of the Resource Curse", World Politics 51, no. 2 (1999): 297-322

of current and future generations, the poor and those that are most affected by extractive activities. Thirdly, the country should guard against external revenue leakages commonly perpetrated by powerful multinational enterprises in the extractive industries sector. Most importantly, deliberate efforts should be made to ensure that oil, gas, and mining companies pay their fair share of taxes to the government of Uganda.

1.1 Purpose of the Study

The study set out to review relevant legal frameworks for the taxation, management and sharing of extractive revenues with the objective of identifying opportunities for optimal revenue generation, areas for tax harmonisation and plugging current revenue leakage risks. Overall, the study findings are expected to (a) contribute to initiatives for strengthening of the legal and policy frameworks in order to minimize leakages and increase revenues from the extractives sector, (b) contribute to solutions to the current inequities in the sharing of extractive revenues between the central government and local governments, (c) provide information on revenues realized from Uganda's extractives sector and how it is has been managed so far, (d) make recommendations that can enhance transparency and accountability in the management of the extractives sector.

1.2 Methodology

1.2.1 Approach to the study

To ensure a nuanced understanding of the extractives sector, a participatory and mixed methods approach was chosen, combining the strengths of qualitative and quantitative data. While the study primarily relies on qualitative methods, quantitative data from secondary sources supplements the analysis, ensuring a comprehensive exploration of the sector..

1.2.2 Data collection

This study used both secondary and primary data collection techniques. A preliminary literature review eas conducted to identify relevant data sources and develop data collection tools. The desk review focussed on sector-related legislation, government documents, reports, and articles. In addition, an in-depth review of laws and policies was used to identify iniquities, revenue leakages, areas of harmonization, and ineffective tax exemptions.

Key informant interviews were conducted with local government officials in the districts of Hoima, Kikuube, Buliisa and Mubende. These interviews generated data on the gaps in the mechanisms for generation, distribution and sharing of revenues from the extractives industry. The key informants also proposed recommendations on how the identified gaps could be resolved. Interviews were also conducted with officials from relevant government Ministries, Departments and Agencies (MDAs) as well as civil society organizations.

1.2.3 Study area

The study team carried out field visits in the districts of Buliisa, Hoima, Kikuube, and Mubende. These districts were selected due to their possession of oil and gas or gold deposits, offering a unique perspective on the practical aspects of extractives revenue generation. Mubende district's extensive history of gold mining, primarily by Artisanal and Small-Scale Miners (ASMs), provided valuable insights applicable to the relatively new petroleum industry..

2.0 REVENUE GENERATION: THE STRUCTURE OF UGANDA'S OIL, GAS, AND MINERALS FISCAL REGIME

Revenue generation is the function of the fiscal regime. This refers to *"a set of instruments or tools (taxes, royalties, dividends, etc.) that determine how the revenues from oil and mining projects are shared between the state and companies."*[18] Uganda's extractive industries' fiscal regime generates two main types of revenues i.e., tax and non-tax revenues. The different taxes applicable to the extractives sector are provided for under the Income Tax Act cap 340 (as amended), Value Added Tax Act cap 349 (as amended), and the Stamp Duty Act 2014. On the other hand, provisions relating to non-tax revenues are contained in The Petroleum (Exploration, Development, and Production) Act 2013; The East African Crude Oil Pipeline (Special provisions) Act 2021; and the Mining and Minerals Act 2022 among others. In some cases, the resource agreements signed with petroleum and mining companies also determine the amount of royalties, fees, and bonuses payable.

2.1 Tax Revenues

A tax may be broadly described as a compulsory levy imposed by government (including sub-national government).[19] The cardinal purpose of taxation is to generate revenues for the State albeit taxes are also instruments of social regulation where for instance they are designed to create equity (for example capital gains taxes) or to discourage certain consumption behavior (for example sin taxes). In the context of the extractive industries, taxation provides an important avenue for states to generate critical resource revenues. This is mainly achieved through the deliberate imposition of taxes on activities, profits and assets of petroleum and mining companies.

In Uganda, the extractive industries are subject to various types of taxes. These include income taxes and several forms of withholding

18 Fiscal Regime Design, What Revenues the Government will be Entitled to Collect, NRGI Reader, March 2015. Available on https://resourcegovernance.org/sites/default/files/nrgi_Fiscal-Regime-Design.pdf

19 Emma Chamberlain et aal, Revenue Law Principles and Practice, 23rd Edition, 2006, Total Publishing.

taxes. Besides income taxes, the extractive industries are also subject to different other forms of taxes such as stamp duties and Value Added Taxes (VAT).

2.1.0 Income Tax

Income tax is a tax that is imposed on incomes and/or profits earned by individuals, business organizations and other entities. Under the Constitution of the Republic of Uganda, a tax can only be imposed under the authority of a statute that is passed by parliament.[20] In this regard, the general principles relating to the taxation of income in Uganda are contained in the Income Tax Act cap 340.[21] The law imposes an annual tax on every person (including companies) with chargeable income.[22] Chargeable income is defined as the gross income of a person (including companies) for a year of income less total allowable deductions (expenses).[23] Gross income on the other hand is the total amount of business income, employment income and property income.[24] The implication of these provisions of the law is that the various forms of incomes derived by companies, individuals and other entities involved in the extractive industries are subject to tax. The rates of taxation vary with the nature of the entity whose income is subject to tax.

It should also be noted that although income derived from the extractive industries is generally subject to the broad principles of taxation under the Income Tax Act, in 2008, the law was amended to introduce a special regime for the taxation of oil, gas, and minerals. As a result, Part IX A of the Income Tax Act defines the business expenses which oil, gas and mining companies are entitled to claim in the form of taxable deductions. More importantly, the law requires oil, gas, and mining companies to account for their activities on a project-by-project basis. This is also known as the ring-fencing principle. It means that each project is treated separately from the other, and that profits from one project may not be used to offset business expenses incurred in the other with the implication that the tax payable to government is significantly reduced.[25]

20 Article 152, Constitution of the Republic of Uganda, 1995 (as amended).
21 Income Tax Act cap 340 (as amended)
22 Ibid, Section 4
23 Ibid, Section 15
24 Ibid, Section 17
25 Natural Resource Governance Glossary, Natural Resource Governance Institute, Feb 2017.

a) Corporate Income Tax (CIT)

Income derived by corporate bodies are subject to payment of Corporate Income Tax (CIT). The tax is mainly imposed on incomes derived from carrying on business i.e., income derived from the disposal of trading stock, gains made on disposal of capital assets, interest, rents, and the value of gifts derived from a past, present or prospective business relationship.[26] In addition to this, corporate bodies (including companies involved in the extractive industries) are required to pay taxes on incomes derived from the provision, use or exploitation of property. This includes dividends, interest annuity, natural resource payments, rent, royalties, and any other similar payments.[27] The corporate tax rate under Uganda's Income Tax Act is 30%.[28]

It is observed that the scope and breadth of Uganda's corporate tax regime is broad enough to capture as much revenues as possible from the companies involved in the extractive industries. Uganda's CIT rate also compares well with that of other countries in the region. Burundi, Kenya, Tanzania, and Rwanda all charge a 30% CIT.[29] A harmonized tax rate enables countries to maximize their extractives revenue potential and to avoid harmful tax competition i.e., the idea that just like companies, countries can compete for investment through tax cuts and other incentives. This has had devastating consequences for many African countries and is responsible for the so-called race to the bottom- a sacrifice of national economic interests to gain competitive advantage.[30] Therefore, a harmonized tax approach is critical for resource rich countries in Africa to avoid the race to the bottom and to maximize tax revenues from their extractive industries.

The progressive nature of Uganda's CIT regime notwithstanding, its yield in respect to companies involved in the extractive industries is still significantly low. Several factors explain this result - in the oil and gas sector, companies are still largely involved in exploration and other initial investment stages. These are all highly capital-intensive undertakings that often generate almost no or significantly low income

26 Section 18 Income Tax Act cap 340 (as amended)
27 Ibid, Section 20
28 Ibid, Section 30
29 Burundi Law no. 1/02 of 24 January 2013, Kenya Income Tax Act cap 470 (as amended), Burundi Law no. 1/02 of 24 January 2013, Rwanda Law no. 016/2018 of13/04/2018, Sections 53 and Schedule 1, Tanzania Income Tax Act cap 332 (Revised Edition)
30 Tax Competition and the Race to the Bottom, Tax Justice Network, November 14, 2020. Available on https://taxjustice.net/topics/tax-competition-and-the-race-to-the-bottom/

for the companies. Secondly, even if income were to be generated from such initial activities, it would still be subject to the deduction of allowable business and other investment expenses leaving a small taxable income. The combination of all these factors is responsible for the significantly low CIT yield from companies involved in the petroleum sector.

The situation of CIT and its yield is even more dire in the country's long-standing mining sector. High levels of informality and the dominance of Artisanal and Small-Scale Miners (ASM) in the sector make it extremely difficult to tax (including for CIT purposes).[31] Secondly, the mining sector was poorly regulated for long- a factor which encouraged tax evasion and other forms of revenue leakages.[32] More broadly, the low performance of CIT in the mining sector has been blamed on the poor enforcement of payments and the lack of coordination between the Directorate of Geological Survey and Mines (DGSM) and the Uganda Revenue Authority (URA).[33]

Given all these factors, the CIT realized from the mining companies remains very low when compared to that from companies in the petroleum sector. For instance, in FY 2020/21, the total corporate income tax received by the URA from the mining companies amounted to UGX 701,100,259. This was much lower than CIT of UGX 140.93 billion realised from the oil and gas companies during the same period.[34]

b) Capital Gains Tax (CGT)

Capital Gains Tax (CGT) is yet another form of income tax applicable to the extractive industries. Under the Income Tax Act, the gains made from the disposal of business assets are treated as business income and are thus taxable.[35] Business assets in this sense include assets

31 Maria Lawa Barreto, Patrick Schun, Jennifer Hinton & Felix Hruschka, Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold, Alliance for Responsible Mining, 2018 at pg. 52. Available at https://www.responsiblemines.org/wp-content/uploads/2018/03/Uganda_case_study.pdf

32 Thomas Scurfield (2018). The Fiscal Regime for Uganda's Mining Sector: A Need for Reform? Natural Resource Governance Institute, Kampala, 2018. Available at: https://resourcegovernance.org/analysis-tools/publications/fiscal-regime-uganda-mining-sector-need-reform

33 Annual Report of the Auditor General on the Financial Statements of the GOU for the Financial Year Ended 30th June 2020, Central Government and Statutory Corporations pg.80

34 UGEITI Report for FY 2020/21, pgs.105 and 161.

35 Section 18, Income Tax Act cap 340 (as amended)

owned and/or operated by the taxpayer.[36] From this definition, it follows that any gains that may be realized from the disposal of assets owned by oil, gas and mining companies are taxable. Consequently, CGT is so far the biggest source of tax revenue accrued from Uganda's oil and gas sector.

The sale (farm down) of Heritage Oil and Gas Ltd (HOLG) assets to Tullow Uganda Ltd in 2004 attracted CGT amounting to USD 404 million. The process of realization of this tax was however not without challenges. The decision to impose the tax was initially challenged by Heritage Oil and Gas Ltd before the Tax Appeals Tribunal (TAT) albeit unsuccessfully.[37] Not satisfied with the ruling of the TAT to the effect that it was liable to pay the tax, HOLG appealed to the High Court and lodged an arbitral complaint in London. All decided in favor of Uganda.[38] In addition to efforts to legally challenge the tax, it is on record that HOLG had earlier on attempted to avoid payment of the tax altogether by redomiciling its operations to Mauritius – a renowned tax haven.[39]

The government of Uganda further realized CGT in the amount USD 250 million from the transaction involving the sale and transfer of Tullow Oil Uganda's interests to China National Offshore Oil Company (CNOOC) and Total in 2010.[40] As with the first case, the tax was not collected without contestation. Tullow challenged the decision to impose a USD 462 million in CGT on the basis that it was exempted from payment of such taxes under Article 23.5 of the 2001 Production Sharing Agreement (PSA). The Tribunal however found that the exemption had been wrongly granted by the Minister since it was only Parliament entrusted with the powers to legislate over tax matters in the Constitution.[41] On this basis, it upheld the assessment but revised the CGT payable to USD 407 million.

Not to give up easily, Tullow further challenged the assessment of CGT

36 Ibid, Section 2

37 Heritage Oil and Gas Ltd v. URA, TAT App. No 26 of 2010

38 Heritage Oil and Gas Ltd v. URA, High Court Civil Appeal No. 14 of 2011. See also Uganda has won a Landmark $434m (over Shs. 1.1 trillion) Oil Tax Case in London against Heritage Oil and Gas Ltd, New Vision. Available on https://www.newvision.co.ug/news/1316689/uganda-wins-heritage-oil

39 Rob Wilson, Panama Papers: How Jersey Based Oil Firm Avoided Taxes in Uganda, BBC, April 8, 2016. Available on https://www.bbc.com/news/world-africa-35985463

40 Bank Of Uganda Annual Report 2015/16 at pg.69.

41 Tullow Uganda Ltd & Tullow Operational Pty Ltd v. URA, TAT Application No.4 of 2011

by the government of Uganda before an arbitration tribunal in London. However, before the matter could be determined, the parties settled for payment of USD 250 million in full settlement of the tax liability. This amount was paid over a period of two years.[42] While the payment of USD 250 million in full settlement of the CGT tax may be deemed reasonable in the circumstances, it should be noted that the tax paid was significantly lower than what was initially assessed by the URA i.e., USD 462 million. As a result, and following the settlement, the country lost an opportunity to collect an additional USD 212 million in CGT.

In the third and most recent collection of CGT, the Uganda government received USD 14.6million from the purchase of Tullow Oil (U) Ltd by Total E & P.[43] Although it initially had been anticipated that the country would earn USD 167 million in CGT from the sale, the fall of global oil prices at the height of the COVID 19 pandemic significantly reduced the amount of gains from the transaction.[44]

Table 1: Capital Gains Taxes Earned from Oil and Gas 2010-2021

Transaction	Year	Capital Gains Tax collected (Million USD)
Heritage Farmout to Tullow	2010	404
Tullow Farm down to Total and CNOOC	2011	250
Tullow Farmout to Total	2021	14.6
Total		**668.6**

Source: BOU Reports 2015/16 to 2020/21

Uganda's difficult experience in the collection of CGT presents one major lesson i.e., resource contracts that are not well negotiated can deny countries the opportunity to maximize extractives tax revenues even when they seemingly have comprehensive tax laws. In the event, the country needs to continuously invest in capacity building of officials engaged in such negotiation processes. Secondly, resource contracts should be made public. This will allow scrutiny which acts as a check on the conduct of officials involved in negotiation of such contracts. Thirdly and considering this challenge, resource rich countries need to invest in the development of Model resource contracts which can act as a template during negotiation. Although Uganda has a Model PSA, in the absence of public disclosure of the PSAs signed so far,

42 Ibid.
43 Bank of Uganda Annual Report 2020/21 at pg.51
44 Bank of Uganda Annual Report 2018/19 at pg.40

it is difficult to ascertain the extent to which it has been adopted in practice. Besides, Uganda is yet to adopt and publish a Model Mining Agreement.

c) Withholding Taxes (WHT)

Corporations including those in the oil, gas and mining sectors are obligated to withhold taxes on payments made to third parties such as shareholders, lenders, professionals, and other contractors. Withholding tax rates depend on whether the taxpayer is considered a resident or nonresident for tax purposes. The rates also vary with the nature of the payment made. Under the Income Tax code, the payment of dividends, interest, royalties, rents, management charges and natural resource payments attracts a 15% WHT if made to a nonresident taxpayer.[45] The tax is considered a final tax in this case. Where similar payments are made to resident taxpayers however, they attract a 6% WHT.[46]

All withheld amounts are required to be remitted to the URA by the persons making the payment. Since oil, gas and mining companies are in the habit of paying dividends, interests, and management fees, they are obliged to withhold taxes on all these payments. Consequently, in the year 2020/21 the URA collected a total of UGX 53.162 billion in withholding taxes from the petroleum sector.[47] During this same period, the URA declared collections of USD 1.181billion in withholding taxes from the mining sector.[48]

d) Pay Roll Taxes

Pay roll taxes (also referred to as Pay As You Earn taxes) represent taxes imposed on incomes earned from employment i.e., employment income. Under the Uganda Income Tax Code, employment income is defined to include wages, salaries, leave payments, overtime pay, gratuity, bonus and in some cases the value of benefits received from employment.[49]

Employment income is taxed in a relatively progressive manner whereby those who earn more are taxed more. Secondly, all persons whose total annual employment income is equal to or less than UGX 2,820,000 are

45 Section 83 and Parts IV and IX A of the Third Schedule, Uganda Income Tax Act cap 340 (as amended)
46 Ibid, Sections 117, 118, 118A, and Part V (dividend and interest payments) and Part VIII (professional fees),
47 UGEITI Report for FY 2020/21 at pg. 150
48 Ibid.
49 Section 18, Income Tax Act cap 340 (as amended)

exempted from the payment of the tax. In all other cases, the law also makes it mandatory for employers to withhold and remit to the URA varying amounts of taxes from payments made to their employees. This provision applies to incomes of employees employed in the oil, gas, and mining sectors. In the FY 2020/21, URA reported PAYE collections of UGX 2.72billion and UGX 2.20 billion from the petroleum and mining sectors respectively.[50]

e) Local Service Taxes (LST)

Local Service Tax (LST) is another form of pay roll tax required to be withheld from all payments made to employees. This includes those employed in the oil, gas, and mining sectors.[51] The amount of LST payable is determined under the Local Government Act and ranges from UGX 5,000 to UGX 100,000. However, persons whose annual income is less than 1,200,000 are exempted from payment of LST.

The challenge is that while a great potential source of revenue, payroll taxes in the form of PAYE and LST are difficult to enforce in sectors like mining that are highly informal and presently dominated by ASMs. This notwithstanding, the tax holds a lot of promise in the oil and gas sector. Even before the commencement of commercial oil production that is anticipated to significantly boost LST collections, there is observably remarked enhancement in LST collection especially by those local governments where related projects are being undertaken. For instance, in Buseruka subcounty, Hoima district local government, the LST collections have increased by more than 100% since the onset of construction of an international airport at Kabaale in 2018.[52]

2.1.1 Stamp Duty

Stamp duties are a form of taxes payable on instruments i.e., documents by which a right or liability is, or purports to be, created, transferred, limited, extended, extinguished, or recorded.[53] With regard to the extractive industries, stamp duties are mainly levied on instruments of land and share conveyance. These include leases, land transfers, and share transfers. The amount of stamp duty payable on each of these instruments is determined in accordance with the provisions of the Stamp Duty Act 2014 (as amended).[54]

50 UGEITI Report for FY 2020/21 at page 150.
51 Local Government (Amendment) Act 2008.
52 Interview with Finance Officials at Hoima District Local Government and Buseruka Sub County, February 2022.
53 Stamp Duty Act 2014 (as amended)
54 Ibid, Second Schedule to the Act

The law provides for payment of a 1.5% stamp duty on all transfers (including land and share transfers). However, where the transfer relates to shares held by companies listed on the Uganda stock exchange, a lower rate of 0.5% stamp duty is charged. Leases attract a 1% stamp duty while company formation and capital raising activities are subject to 0.5% stamp duty.

Although stamp duties are not as frequently paid as other forms of taxes, they equally provide a good source of revenue in the extractive industries. During the year 2016/17, Uganda earned a total of USD 52,433,312 from sales and transfers of assets by international oil companies.[55] Of this, USD 14.5 million was received from Tullow Oil PLC; USD 29.3 million from Total E & P and CNOOC; and USD 8,6 million from Tullow OIL PLC. Although the amount of stamp duties realised from the mining sector is currently not much i.e., USD 100.816 million, this form of tax has a huge potential to generate significant revenue if strictly enforced than it is in the present context.[56]

Table 2: Stamp Duties from Oil and Gas Sector Farm outs 2010 - 2021

Transaction	Year	Amount of Stamp Duty Paid (Million USD)
Heritage Farmout to Tullow	2010	14.5
Tullow Farm down to Total and CNOOC	2011	29.3
Tullow Farmout to Total	2021	8.6
Total		**52.4**

Source: Bank of Uganda Reports 2015/16 to 2020/21

2.1.2 Value Added Tax (VAT)

This is a form of indirect tax that is charged on the supply of goods and services. Under Ugandan law, VAT tax is charged on taxable supplies made by taxable persons, import of goods and the supply of imported services.[57] This provision applys to taxable supplies, and the import and export of goods and services made in the context of the petroleum and mining sectors. However, in the interest of encouraging investment in these critical sectors, certain aspects of VAT have been waived. Under the law, the VAT payable on supplies made to licenceses undertaking mining or petroleum operations is deemed to have been paid by the

55 Bank of Uganda Annual Report 2016/17 at pg.68
56 UGEITI Report for FY 2020/21 at pg. 161
57 Section 4, Value Added Tax cap 349 (as amended)

licencee.[58] However to benefit from this VAT exemption, the licensee must show that the supply was made solely and execlusively for their use in mining or petroelum operations.[59]

Outside this exemption, mining and petroleum companies may be liable for some aspects of VAT. Consenquentlty, the Uganda Revenue Authroity collected a total of UGX 24,441,907,163 in VAT from the petroleum sector in respect to the period 2016/17 to 2020/21.[60] Most recently, the petroleum and mining sectors accounted for UGX 9.0 billion and 4.06billion in VAT payments received by the URA respectively.[61]

2.2 Non-Tax Revenue Sources

In addition to taxes, there exists other sources from which governments may be able to generate revenues in the context of the extractive industries. These are also referred to as non-tax revenue sources, and if well enforced can greatly enhance domestic revenue mobilisation. In the case of Uganda's extractive industries, the main non-tax revenue sources include royalties, bonus payments as well as various forms of institutional payments.

2.2.1 Royalties

Royalties represent *"payments made to the government to compensate it for the right to extract (and purchase) a non-renewable natural resource"*.[62] In the context of Uganda, there exists laws for the payment of royalties in both the mining and petroleum sectors. Under the newly enacted Mining and Minerals Act 2022, companies are oblidged to pay royalties on all minerals obtained or mined in the course of prospecting, exploration or mining operations.[63] The royalties are payable on the gross value of minerals produced based on the prevailing market price of the minerals at such rates as shall be determined by the Minister of Energy and Mineral Development in collaboration with the Minister of Finance.[64]

Under the same law, the responsibility to assess the royalties payable is

58 Ibid, Section 24 (5)
59 Ibid.
60 Unofficial figures from the URA, Oil and Gas Division.
61 UGEITI Report for FY 2020/21 at pg.161.
62 NRGI, Oil Gas and Mining Fiscal Terms, January 2010. Available on https://resourcegovernance.org/analysis-tools/publications/oil-gas-and-mining-fiscal-terms
63 Section 180(1), Mining and Minerals Act, 2022.
64 Ibid.

vested in the Minister of Energy and Mineral Development.[65] However the collection and enforcement of payment of royalties is vested in the Commissioner General of Uganda Revenue Authority who is required to exercise this power in accordance with the Income Tax Act.[66] This is a departure from the position under the repealed Mining Act of 2003 where royalties were required to be paid to the Commissioner for Geological Survey and Mines Department.[67] This arrangement was a major source of revenue leakage.

According to the Auditor General's Report for FY2016/17, the Directorate of Geological Survey and Mines (DGSM) issued export permits for 16.281kg of gold while the URA records reflected 8,691kgs of gold exports worth USD 339.09 million.[68] The discrepancy in the reported amount of gold exports was responsible for a revenue loss of between USD 3.39 million to USD 16.9 million in uncollected royalties.[69] This loss was further attributed to the lack of coordination between DGSM and URA.

The OAG has further indicated that in 2019, the government of Uganda managed to collect mining royalties in the sum of UGX 10,503,398,902.[70] However, a review of customs and excise tax reports from the URA indicated that UGX 70,193,258,898 should have been collected.[71] This represents a revenue leakage of UGX 59,689,859,996.

In light of the above, it is hoped that the harmonisation of royalties and other revenue collections under the Mining and Minerals Act of 2022 will help reduce mineral revenue leakages that were attributed to the poor coordination between the URA and the DGSM.

Table 3: Royalty Rates per Mineral Commodity

Mineral Commodity	Rates
Precious Metals except gold	5% of gross value
Precious Stones	10% of gross value
REE	5% of gross value

65 Ibid, Section 181.
66 Ibid.
67 Section 98, Mineral Act 2003 and Regulation 71, Mining Regulations SI no. 71 of 2004.
68 Office of the Auditor General, Extracts of Findings of the Auditor Generals Annual Report to Parliament 2017 at pg. 14
69 Ibid.
70 Office of the Auditor General, Key Highlights of the Auditor General's Report to Parliament, December 2019 at pg.27
71 Ibid

Mineral Commodity	Rates
Base Metals and Ores, other than iron ore	5% of gross value
Graphite	5% of gross value
Coal and Peat	10,000/= per tonne
Vermiculite	20,000/= per tonne
Kaolin, limestone, chalk, gypsum	20,000/= per tonne
Marble, granite, and other dimension stones	20,000/= per tonne
Pozzolanic materials	2,000/= per tonne
Phosphates	20,000/= per tonne
Salt	5000/= per tonne

Source: Mining and Minerals (Licensing) Regulations, 2023

Uganda's mineral royalty rates compare favourably well with those in other countries in the region. However, the major challenge that exists is the consistent lack of enforcement of royalty payments from the mining companies with the result that less revenue is collected.

Table 4: Royalty rates in Tanzania, Kenya, and Rwanda

Tanzania		Rwanda		Kenya	
Minerals	Rate on gross value of minerals produced	Minerals	Tax on minerals	Minerals	Rate on gross sales value
Metallic minerals copper, gold, silver, and platinum group minerals,	6%	Precious metals of gold category and other precious metals of that kind	6% of the norm value	Gold and silver	5%
Diamond and Gemstone	6%	Precious metals of diamond category and other precious stones of that kind	6% of the gross value	Diamonds	12%

Tanzania		Rwanda		Kenya	
Minerals	Rate on gross value of minerals produced	Minerals	Tax on minerals	Minerals	Rate on gross sales value
Uranium	5%	Base metals and other mineral substances of that kind	4% of the norm value	Manganese and iron ore	8%
Gem	1%			Coal	8%
Other minerals (building materials, salt, all minerals within the industrial minerals group	3%			Titanium ores and rare earths	10%

Source: The United Republic of Tanzania Mining Act (Revised Edition 2019), Republic of Kenya Mining Act, 2016 and Republic of Rwanda Law on Mineral Taxes, 2013

In respect to petroleum, while the law provides for payment of royalties at the point of delivery, it does not specify the rates applicable.[72] This is instead left to negotiation of the parties during the process of discussing the Production Sharing Agreement (PSA). The challenge with this is that since Uganda is yet to publicly disclose any of the agreements signed with the international oil companies, it is difficult to ascertain the amount of royalties that the country has earned/will earn from ongoing projects. This said, the 2016 Model PSA contains some indicative royalty rates albeit it remains unknown as to what extent the agreement has been followed in negotiations with international oil companies.

72 Section 154, Petroleum (Exploration, Development and Production Act) 2013.

Table 5: Indicative Royalty Rates under Uganda's Model PSA 2016

Gross Total Daily Production (BOPD)	Uganda
Where the production does not exceed 5,000	(2½ + X)%
Where the production is higher than 5,000 but does not exceed 10,000	(5 + X)%
Where the production is higher than 10,000 but does not exceed 20,000	(7½ + X)%
Where the production is higher than 20,000 but does not exceed 30,000	(10 + X)%
Where the production is higher than 30,000 but does not exceed 40,000	(12½ + X)%
Where the production is higher than 40,000	(15 + X)%

Source: 2016 Uganda Model Production Sharing Agreement

Note- X representes additional amount that may be agreed upon by the government and the licencees.

The uncertainties surrounding the royalty rates applicable under the petroleum regime notwithstanding, there are indications that Uganda has earned some royalties even before the onset of commercial oil production. According to the Bank of Uganda, a sum of UGX 11.3 billion comprising of income tax and royalties was deposited into the Petroleum Fund in FY 2016/17.[73] However since the amount is not disaggregated, it is not very clear as to how much of this was royalties. Secondly, since the payment of royalties under the law is tagged to the amount of petroleum produced, the actual source of these revenues is quite unclear as the country is yet to embark on production.

2.2.2 Export Levies

In a bid to boost revenue earnings from the mining sector, the government of Uganda introduced an export levy on gold and unprocessed minerals in 2021. As stated above, the amount of gold exports has drastically increased over the years and currently, gold is the leading commodity export. The dilemma is that the surge in gold exports has not directly translated into extra revenues. Whereas mining laws provide for the payment of royalties and other levies on mineral exports, these were not well enforced because of the poor coordination between the URA and the DGSM among other reasons. It is against this background that the export levy on gold and unprocessed mineral exports was introduced in July 2021. Accordingly, the Mining (Amendment) Act of 2021 provides for a 5% levy on the value of any kilogram of processed

73 Bank of Uganda Annual Report, 2016/17 at pg.68

gold exported out of Uganda.[74] The law further provides for a 10% levy on the value of any unprocessed minerals exported out of Uganda.[75] In both cases, the levy is required to be paid by exporter to the Uganda Revenue Authority (URA).

While the above provisions are critical for revenue mobilisation from especially the illusive gold export trade, they have so far not yielded much. Right from the time that the law was passed, it was met with stiff resistance from key industry players who opted to hold back on to all gold exports until the government has reconsidered the levy. This resulted into a very sudden and sharp decline in the amount of gold exports.[76] There was also a decline in the amount of imported gold since most of it was being brought in for purposes of refining before it is re-exported at which point the levy would be due. Consequently, as of November 2021, the halt on exports is estimated to have cost the country USD 720million in missed gold exports.[77] This has forced the government to reconsider the levy although at the moment it is still applicable on all exports of gold and other unprocessed minerals. It remains to be seen as to whether the law will be retracted and what effect this will have for revenue mobilisation.

2.2.3 Bonus Payments

Bonuses are payments required to be made at specific points of petroleum projects timelines.[78] Under Uganda's petroleum law, licensees (oil companies) are required to pay a signature bonus upon the grant of exploration and production licenses.[79] It is a further requirement for the assessed signature bonuses to be paid in the form of single, non-recoverable lumpsum payments.[80] Unlike taxes and royalties, bonuses are payable upfront (at beginning of exploration and production processes) and are not necessarily dependent on

74 Section 2 Mining (Amendment) Act, 2021.

75 Ibid, Section 3

76 Dorothy Nakaweesi, No Gold Exports were recorded in July, Receipts Drop by 51%, Daily Monitor, Monday September 20, 2021. Available on https://www.monitor.co.ug/uganda/business/markets/no-gold-exports-were-recorded-in-july-receipts-drop-by-51--3556760

77 Jonathan Kamoga, New Export Tax on Gold cost Uganda $720 million, The East African, November 6, 2021. Available on https://www.theeastafrican.co.ke/tea/business/new-export-tax-on-gold-costs-uganda-720m-3610102

78 Natural Resource Governance Institute, Fiscal Regime Design.

79 Section 156, Petroleum (Exploration, Development and Production) Act.

80 Section 156 (2) Petroleum (Exploration, Development and Production) Act.

profitability and production. In this way, they provide an early source of revenue for governments.

The challenge that exists in respect to Uganda's oil and gas sector is that the amount of signature bonuses payable by oil companies is not specified in the law. Rather, it is to be determined during PSA negotiations between the government and oil companies/licensees. As is the case with royalties, this makes it difficult to ascertain the full amount that has been paid to the government of Uganda in signature bonuses.

That said, the 2016 Model PSA contains some indications as to the amount of signature bonuses payable by oil companies at the time of commencement of oil production. Article 8 of the Model PSA provides for payment of a production bonus in the amount of USD 5 million when production first reaches 50,000,000 BOE. In addition to this, oil companies are liable to pay an extra USD 3 million for any additional 25,000,000 BOE.[81]

Part of the USD 813,375 deposited into the Petroleum Fund in FY 2017/18 is reported to have been constituted of surface rental fees, training fees and signature bonuses on grant of a production license.[82] However in the absence of disaggregated data, it is not easy to ascertain the specific amount received in production bonuses alone. Nonetheless, according to information gathered from media reports and interviews with government officials, out of a total payment of USD316,000 that was received from Armour Energy in 2017, USD 110,000 constituted a signature bonus paid by the company.[83]

2.2.4 Annual Fees & Other Non-Tax revenues

The other sources of non tax revenues take the form of annual institutional payments, rents and fees. With respect to mining, the provisions for the payment of annual mineral rents and other forms of fees existed in the old mining law and a mjaority of these have been retained in the Mining and Minerals Act, 2022.[84] It should however be noted that under the previous legal regime, these paymemts were

81 Article 8, 2016 Uganda Model Production Sharing Agreement.

82 Bank of Uganda Report, 2017/18 at pg.64

83 John Odyek, Government gets Shs. 1 trillion in Oil Signature Bonus, New Vision , September 15, 2017.Available on https://www.newvision.co.ug/news/1461677/government-sh1-trillion-oil-signature-bonus

84 Sections 191 and 192, Mining and Minerals Act, 2022. Previously, these were provided for under the Mining Act of 2003 and the Mining Regulations 2004 (as amended) by Mining (Amendment) Regulations, S I No. 64 of 2011

for the most part poorly enforced. In this regard, the Auditor General observed thus; *"Section 106(1) and (2) of the Mining Act, 2003 requires exploration and mining companies to pay mineral rent fees annually. However, I noted that UGX. 2.71 Bn in rent fees was outstanding as of 30th June 2017. The failure to collect annual mineral rent fees by the Directorate may lead to loss of government revenue."*[85] Given this, it remains to be seen as to what extent the payment of rents and other forms of fees provided for under the newly passed Mining and Minerals Act of 2022 will be enforced.

In the case of the oil and gas sector, the non-tax revenue sources include annual training and research fees, annual acreage rental fees, bonuses, data sales and interest.[86] The challenge is that unlike taxes and royalties, the law does not specify the rates and amounts required to be paid by the companies. This is left to the negotiation of the government and the companies in the PSAs. Since Uganda has not disclosed any PSAs to-date, it is difficult to know how much fees and bonuses have been paid by the companies so far. However, Bank of Uganda reports indicate that the country has of June 2021 earned more than USD 13 million from payment of fees, bonuses, and data sales.[87]

Oil, gas, and mining projects are also responsible for the generation of several forms of indirect revenues for local governments in the areas where they are located. The onset of these projects attracts numerous forms of developments from which local governments can earn revenues. In Kikuube district for example, ongoing oil projects have encouraged the construction of oil related infrastructure such as residential camps, warehousing facilities, and other commercial buildings. These developments attract payment of different forms of fees to the local government.

Consequently, in 2021, Kikuube district local government received fees equivalent to UGX 36 million from subcontractors for the Tilenga project.[88] It should be further observed that right from the onset of oil activities in the Tilenga area, the district has collected over UGX 260 million.[89] All this has been realised from payments of fees for

85 Office of the Auditor General, Extracts of Findings of the Auditor Generals Annual Report to Parliament 2017 at pg. 15

86 Sections 33, 155 and 156, Petroleum (Exploration, Development and Production) Act, 2013.

87 Bank of Uganda Reports 2015/16 to 2020/21

88 Interview with Planning Officer Kikuube District Local Government, February 2022.

89 Ibid.

the issuance of development permission and permits (construction, building and occupational) under the Physical Planning Act.

This said, local governments have the capacity to realise several other forms of fees in respect to physical planning activities in the oil, gas, and mining sectors, but their ability is limited by the lack of clarity on the amount of fees payable under the law in some instances. In the absence of clarity, local governments such as Kikuube currently charge a fee of UGX 50,000 for grant of development permission.[90] The amount is extremely low considering that it is charged irrespective of the size and complexity of the development which affects the amount of revenues collected. To fill this gap, it is necessary for the Minister responsible to formulate the Physical Planning Regulations with clear provisions on the amount of fees payable under the Act. This will further enhance the revenue realisation potential of local governments.

Table 6: Reported Petroleum Revenues as of June 30, 2021

Petroleum revenue Source	USD	UGX
Tax Revenue		
CGT	698,600,000	
Stamp Duty	52,433,312	
Income Tax & WHT		66,620,530,053
Non-Tax Revenue		
Surface rentals, training fees, licence fees, data sale	8,292,117.36	19,587,062,333
Interest	1,035,235	
Advisory and Legal Fees	5,000	
Uncategorised revenues	1,400,000	121,897,701,626
Total	**761,765,664.36**	**208,105,294,012**

Source: Bank of Uganda Reports 2015/16 to 2020/21

2.2.5 State Participation and State Share in Production

State share in production and state participation in extractive industries projects constitutes another major avenue through which countries may derive resource revenues albeit indirectly. State share in production refers to the actual quantity of oil, gas and minerals that is

90 Ibid. See also, Stephen Kafeero and Abdul Naster Sserugabi, Property Developers Face New Tough Building Rules, Daily Monitor, January 21, 2022. Available at https://www.monitor.co.ug/uganda/news/national/property-developers-face-new-tough-building-rules-3689684

agreed to be allocated to the state. This is a good additional source of revenue once received and sold by the state often at the market price. The government's share in petroleum production varies from project to project. However since project PSAs have not been disclosed, it is difficult to determine how much oil and gas the government of Uganda will receive as its share in production.

State participation on the other hand maybe by way of the state pursuing commercial interests in oil, gas and mineral projects in its own right or in parternship with private companies. The profits earned by the state in such ventures constitutes additional revenues. Moreover, state participation enables the state to obtain critical information on the operations of companies. This information is key for enforcement of tax and other payments.

Uganda's petroleum law provides for state participation in petroleum activities.[91] The law also creates a National Oil Company whose mandate includes among others the management of state participation.[92] Further more, the government is required to specify the maximum government share in the project at the time of announcing areas open for grant of exploration licences.[93] Under the 2016 Model PSA, government participation in the petroleum sector may be up to 20% on a free carry basis (at no cost to the state[94]).

In respect to mining, the Mining and Minerals Act of 2022 provides for a no cost state equity participaton of up to 15%.[95] The state may however acquire supplementary participatioin in cash and subject to terms agreed upon with the mineral right holders. This said, the participation of the state in mining projects should in all instances not exceed 35%.[96]

2.3 Gaps in Oil, Gas, and Minerals Revenue Generation

Although Uganda's oil, gas, and mining fiscal regime is seemingly comprehensive with great potential for maximization of resource

91 Section 124, Petroleum (Exploration, Development and Production) Act, 2013
92 Ibid, Section 43
93 Ibid, Section 124
94 Article 10, Uganda Model Production Sharing Agreement for Petroleum Exploration, Development and Production, 2016. Available on https://www.unoc.co.ug/wp-content/uploads/2021/07/MPSA.pdf
95 Section 179, Mining and Minerals Act, 2022.
96 Ibid.

revenues, several gaps still exist.

2.3.1 Stabilization Clauses

One of the challenges is the inclusion of stabilization clauses in most of the existing Production Sharing Agreements. Such clauses prohibit the government of Uganda from the taxation of certain income accruing to the oil companies. Secondly, stabilization clauses prevent the government of Uganda from undertaking critical reforms necessary for maximization of sector revenues. As an example, in 2010 Tullow Oil attempted to rely on a stabilization clause contained in the PSA in relation to Exploration Area 1 to avoid payment of Capital Gains Taxes in the amount of USD 462 million. Following a series of litigation and arbitration proceedings, Tullow Oil finally agreed to pay government of Uganda USD 250 million in full settlement of the tax. As a result, Uganda lost out on an opportunity to earn more than USD 200 million in extra revenues (arising from the difference between the assessed amount of USD 462 million and the USD 250 million paid in settlement) from the transaction.

2.3.2 Treaty Abuse/ Treaty Shopping

The other revenue generation challenge faced in the extractive industries is related to the abuse of Double Taxation Agreements (DTA) by multinational enterprises. DTAs are agreements that are designed to prevent taxpayers from being taxed on the same income by two different countries. DTAs also provide numerous incentives for investment. Under the Netherlands – Uganda DTA for instance, residents of both countries are only liable to pay WHT of 0-5% on dividends and 10% on interest and professional fees respectively.[97] This is low when compared to 15% WHT under the Uganda Income Tax Code.

Although this arrangement is meant to act as an incentive for investment, DTAs have over the years been abused by especially multinational enterprises including those in the extractives sector to avoid payment of their fair share of taxes altogether.[98] This is achieved through a practice known as treaty abuse or treaty shopping. It occurs where a person (including corporate companies) that is not a resident of the two countries subject to the DTA accesses benefits meant for

97 Convention between The Kingdom of the Netherlands and the Republic of Uganda for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income. Available on https://ura.go.ug/eventManagementController/getEventListByID?contentId=999000000000446&type=TIMELINE

98 Report of the High Level Panel on Illicit Financial Flows from Africa.

residents of those countries.[99]

In the context of Uganda's extractive industries, it has been noted that companies in the oil and gas sector have taken advantage of existing Double Taxation Agreements (DTAs) to avoid payment of standard withholding taxes on dividends, interest, and management fees. According to a study undertaken by Oxfam in 2020, Tullow Oil and Total E & P who were then the major project partners in the development of Uganda's oil sector, registered Dutch subsidiaries in order to benefit from the DTA between Uganda and the Netherlands.[100] For this same purpose, China National Offshore Oil Company (CNOOC) which at the time was registered in the British Virgin Islands (a renowned tax haven but without a DTA with Uganda) soon followed suit to establish a subsidiary in the Netherlands. The incorporation of Dutch subsidiaries by Total E & P and CNOOC for the sole purpose of benefiting from an existing treaty between the Netherlands and Uganda amounts to treaty abuse since the companies have permanent tax residence in France and China (all of which don't have a DTA with Uganda) respectively. This arrangement if unabated could cost the country USD 287 million in respect to one project alone.[101]

2.3.3 Dominance and Informality of the ASM

With respect to mining, revenue generation challenges arise from the high levels of informality and the dominance of the Artisanal and Small Miners (ASM). In 2018 it was estimated that the ASM sector was responsible for employment of over 300,000 Ugandans and up to 90% of the minerals mined.[102] The challenge is that ASM activities remain highly informal and this has made it very difficult to access the sector for purposes of taxation and other forms of revenue generation. According to an audit conducted by the Auditor General in 2015 *"ASM operations remain largely informal which adversely affects enforcement of the law and monitoring of operations and ultimately encouraging illegal mining activities that are not only a source of leakage of mineral revenue but*

99 Action 6, Prevention of Tax Treaty Abuse, OECD, Available on https://www.oecd.org/tax/beps/beps-actions/action6/

100 Henrique Alencar, Caroline Avan and Joseph Olwenyi, "Cursed by Design: How the Uganda-Netherlands Tax Agreement is Denying Uganda a Fair Share of Oil Revenues", Oxfam Case Study, 1 October 2020, p.6. https://uganda.oxfam.org/latest/policy-paper/money-pipeline

101 Cursed by Design: How the Uganda-Netherlands Tax Agreement is Denying Uganda a Fair Share of Oil Revenues, Oxfam Case Study

102 Maria Lawa Barreto, Patrick Schun, Jennifer Hinton & Felix Hruschka, Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold, Alliance for Responsible Mining, 2018.

also whose mining practices are not environmentally friendly."[103]

2.3.4 Lack of Institutional Coordination

Poor and sometimes a lack of coordination between the DGSM and the URA has compromised the enforcement of tax and other revenues in the sector. In some other cases, gold was exported based on permits obtained from the Ministry of Trade and Tourism instead of the DGSM. This arrangement was contrary to the provisions of the law in force then which vested the mandate to issue such export permits on the DGSM. It is estimated that the export of gold without declaration to the DGSM in FY 2016/17 cost the country potential royalty earnings in the range of USD 3.39m to USD 16.95m.[104]

2.3.4 Unjustified Incentives

Still in the mining sector, the practice of extending unjustified incentives to companies has cost the country a significant amount of revenue. The incentives take the form of tax breaks/exemptions which have the effect of denying the state the much-needed revenues. According to Global Witness, the exemption of African Gold Refinery (AGR) from payment of taxes on minerals refined and exported is estimated to have cost the Ugandan taxpayer UGX 84 billion (approx. USD 25 million) in 2016 alone.[105] A press release issued by the company on November 20, 2017 showed that whereas it had exported gold worth USD 200 million in FY 2015/16, it had only paid UGX 1.8 billion (USD 515,000) in total taxes to the government for the entire time of its operations in the country.[106] This is significantly low when compared to the company's overall turnover.

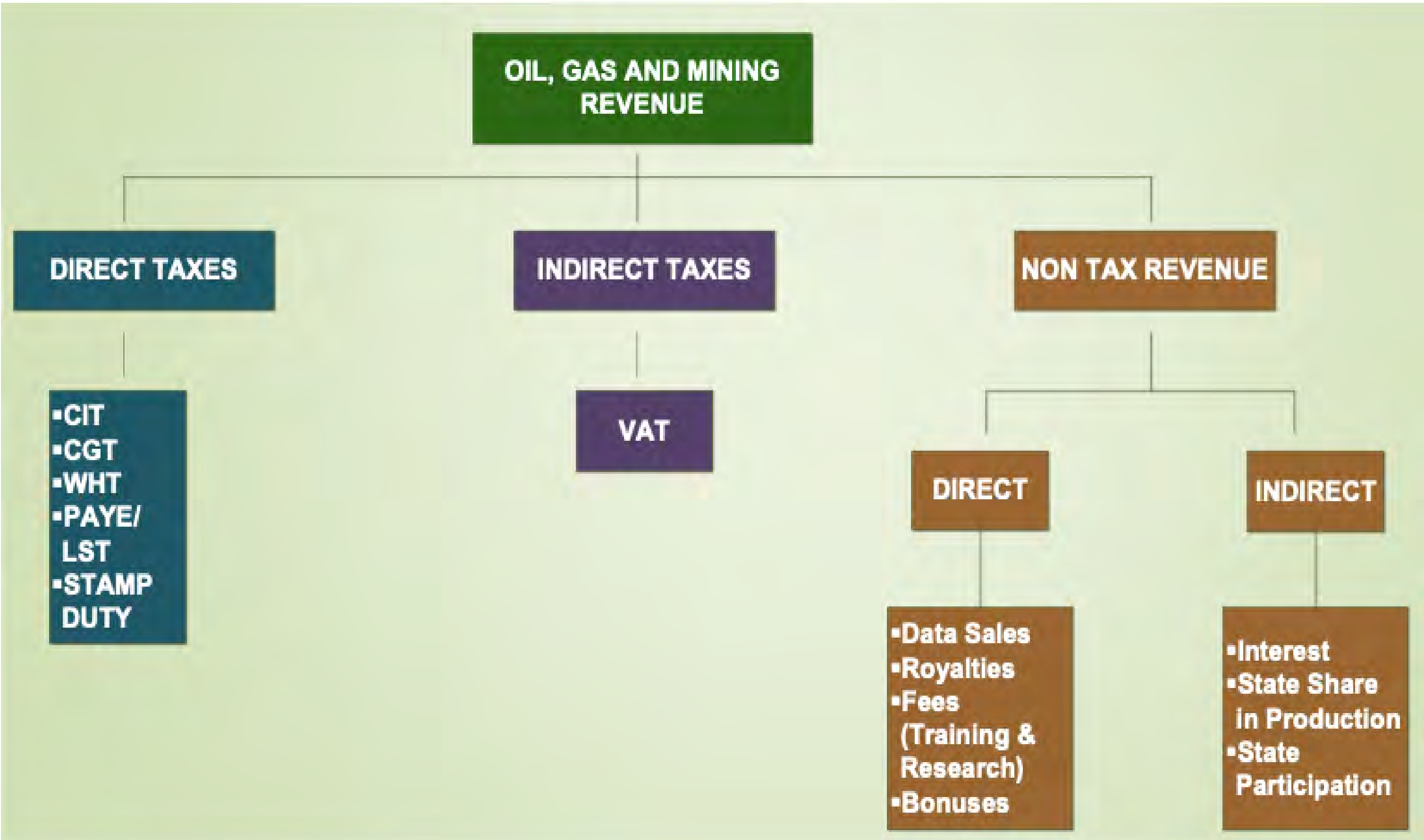
103 Regulation, Monitoring and Promotion of the Mining Sector by Ministry of Energy and Mineral Development, OAG Report, December 2015 pg. 27

104 Office of the Auditor General, Extracts of Findings of the Auditor Generals Annual Report to Parliament 2017 at pg. 14

105 Undermined: How Corruption, Mismanagement & Political Influence is Undermining Investment in Uganda's Mining Sector and Threatening People and the Environment, Global Witness June 2017.

106 Ibid, pg.30. See also Press Release, African Gold Refinery, November 20, 2017. Available on http://www.africagoldref.com/media/index.html

Figure 1: Structure of Uganda's Extractive Industries Fiscal Regime



3.0 REVENUE MANAGEMENT

Resource revenues are unique in the sense that they are finite, highly volatile and have the potential to distort economies.[107] For this reason, such revenues must be managed in a prudent manner if they are to bring lasting benefits to citizens and to the countries where the resources are found. Short of this, it is possible for resource rich countries to generate huge amounts of revenues from oil, gas, and minerals but with devastating consequences for citizens and the economy. This is also referred to as the resource curse phenomenon i.e., a situation where countries with abundant natural resources tend to have less economic growth than countries without or with just a few similar resources.[108] The failure to properly manage extractive revenues is also responsible for the so called "Dutch disease" i.e., the tendency of resource rich countries to concentrate on investments related to oil, gas and minerals while ignoring other critical sectors such as agriculture and manufacturing.[109]

Prudent resource revenue management entails the management of revenues for the benefit of current and future generations, management of volatilities, balanced investment (domestic and foreign) and equitable sharing of revenues. All this must be done in a manner that is transparent and accountable to citizens.[110]

3.1 Oil and Gas Revenue Management

The management of oil and gas revenues in Uganda is specifically provided for in the Public Finance Management Act, 2015 (as amended). The law establishes a petroleum fund into which all petroleum revenues accruing to the government of Uganda must be paid.[111] Once deposited, withdraws from the Petroleum Fund can only be made under the authority of an Appropriation Act passed by Parliament and warrant of the Auditor General for purposes of budgetary support and investment for the future.[112]

Withdraws made to the consolidated fund for purposes of budgetary

107 Revenue Management and Distribution, Addressing the Special Challenges of Resource Revenues to Generate Lasting Benefits, NRGI Reader, March 2015.
108 Natural Resource Governance Glossary, NRGI, Feb 2017.
109 Ibid
110 Ibid
111 Section 56, Public Finance Management Act, 2015 (as amended)
112 Ibid, Section 58.

support are strictly required to be utilized for the purpose of funding infrastructure and development projects of government.[113] It is expressly forbidden to utilize petroleum revenues for purposes of funding recurrent government expenditures.[114]

In addition to the Petroleum Fund, the law provides for all revenues appropriated for purposes of investment to be paid into the Petroleum Revenue Investment Reserve (PRIR).[115] All balances left in the account of the Petroleum Fund following parliamentary appropriations to the consolidated fund are required to be transferred to the PRIR.[116] In terms of control, investments made by the PRIR must be made in accordance with the petroleum revenue investment policy formulated by the Minister of Energy in consultation with the secretary to the treasury and on the advice of the Investment Advisory Committee.[117]

More critically, the investment policy must include a requirement that investments undertaken by the PRIR shall not distort Uganda's macroeconomic stability.[118] Furthermore, the overall management of the PRIR is entrusted with the Bank of Uganda (BOU). This should however be exercised within a framework of a written agreement between the Minister of Energy and the Governor of the Bank of Uganda.[119]

The Petroleum Fund and the PRIR are all required to be managed in accordance with the principles of transparency and accountability. In this regard, the Minister of Energy and Mineral Development is required to present reports to Parliament containing actual inflows and outflows of the petroleum fund, volumes and values of the petroleum produced and all other sources of petroleum revenues.[120] The Minister is also required to publish reports of the Fund in newspapers of wide circulation and to make these available on the Ministry website.[121] Similarly, the Bank of Uganda is required to publish and make publicly available reports of the activities of the PRIR.[122] It is a further requirement for the accounts of the Petroleum Fund and of the PRIR to be audited.[123]

A close analysis of all the above provisions shows that Ugandan

113 Ibid, Section 59.
114 Ibid
115 Ibid, Section 58 (b)
116 Ibid, Section 62 (3)
117 Ibid, Section 63 (1)
118 Ibid, Section 63 (2)
119 Ibid, Section 64
120 Ibid, Section 61
121 Ibid
122 Ibid, Section 70
123 Ibid, Section 71

law contains adequate safeguards for the prudent management of petroleum revenues. The challenge however is that years after the passage of the law, a number of its provisions remain unimplemented. According to the Auditor General, delays in approval of the petroleum revenue investment framework i.e., petroleum revenue investment policy and the agreement with the BOU rendered the PRIR inoperative for several years.[124] He observed that the *"Lack of an approved PRIP delays appropriation of petroleum funds for investment and their subsequent investments to grow the Fund, and without an operational management agreement, the funds will continue to remain unutilized on the Petroleum Fund account without maximizing any returns that could have been obtained if funds were invested without causing undue risk to the PRIR."*[125]

In addition to the highlighted delays, two other challenges with implications for petroleum revenue management were identified. The first one relates to the delay in the enactment of a fiscal rule to guide the expenditure and investment of resource revenues.[126] Fiscal rules constitute of multi-year constraints on government spending, deficit, or public debt accumulation.[127] In the context of resource rich countries, fiscal rules help to achieve micro economic stability and diversification. This is crucial in addressing challenges that arise from price volatilities and economic distortions caused by oil windfalls. More importantly, fiscal rules help countries strike the balance between current expenditure and investment of extractive revenues for the benefit of future generations.

In the absence of a fiscal rule to guide expenditure and savings, all withdrawals from the petroleum fund have previously been channeled to the consolidated fund for purposes of budgetary support at the expense of investments for future benefit. Secondly, in the absence of a fiscal rule, the Minister of Finance has used his very wide discretion to determine how much should be withdrawn from the fund for budgetary support. The result is that by June 2021, a total of UGX 580 billion had been withdrawn from the petroleum fund for budgetary purposes.[128]

124 Report of the Auditor General to Parliament for the Financial Year Ended 30th June 2019, Office of the Auditor General, December 2019 at pg.52. See also Key Highlights of the Auditor General's Report to Parliament, Office of the Auditor General, December 2019 at pg.14.

125 Ibid.

126 Ibid.

127 Ibid.

128 Bank of Uganda Annual Reports 2017/18 to 2020/21.

In 2017/18, the government withdrew UGX 125.3 billion.[129] In 2018/19 UGX 200 billion was transferred to the consolidated fund to finance budgetary activities.[130] In 2019/20 Parliament appropriated UGX 445 billion to the consolidated fund. However, only UGX 255 billion (equivalent to USD 69.95million) was transferred to the consolidated fund to finance the 2019/20 budget.[131] Earlier on before the Fund was established, USD 620,582,750 was spent on the budget without clear explanation of the specific activities funded.

In the absence of an expenditure verification mechanism, it is difficult to ascertain how much of these sums was spent in accordance with the provisions of the law i.e., funding of infrastructure and development projects.[132] This is a major gap in the current petroleum revenue management legal regime. In light of this, the Auditor General has made recommendations for the formulation of verification procedures in respect to funds appropriated from the petroleum fund.[133]

Table 7: Petroleum Fund Inflows and Outflows

FY	UGX Balance as at end of FY	USD Balance as at end of FY	Inflows as at end of FY		Outflows as at end of FY-UGX
			USD	UGX	
2015/16	NIL	72,117,022	72,117,022	NIL	NIL
2016/17	30,922,461,076	109,488,012	37,370,990*	NIL	NIL
2017/18	121.800,000,000	87,400,000	3,830,221.36	121,840,546,088**	125,300,000,000
2018/19	28,200,000,000	74,800,000	1,400,000	54,700,000,000	200,000,000,000
2019/20	63,820,000,000	6,420,000	1,560,000	35,600,000,000	225,000,000,000
2020/21	119,052,211,120	30,875,475	24,450,813	55,231,040,418	NIL

Source: Bank of Uganda Annual Reports

3.2 Mineral Revenue Management

The Mining Act of 2003 which has since been repealed did not have adequate safeguards for the effective management of mining revenues. The payment of royalties, mineral rents, and different forms of fees was required to be made to the Directorate of Geological Survey and Mines

129 Bank of Uganda Annual Report 2017/18 at pg.63
130 Bank of Uganda Annual Report 2018/19 at pg.39
131 Bank of Uganda Annual Report 2019/20 at pg.50
132 Section 58, Public Finance Management Act, 2015 (as amended)
133 Office of the Auditor General, Key Highlights of the Auditor General's Report to Parliament, December 2019, pgs. 14-15

which is under the Ministry of Energy and Mineral Development.[134] On the other hand, the mandate to receive payments for mineral import and export licences was vested in the URA. Inadequate and sometimes lack of coordination between the DGSM and URA was often responsible for revenue leakages.

The Mining and Minerals Act of 2022 has introduced some changes in the management of mineral revenues. While the Minister of Energy and Mineral Resources is responsible for assessment of the royalties payable, all payments are now required to be made to the URA (as opposed to the DGSM).[135] This is important to streamline revenue payments and will go a long way in improving revenue management if well enforced.

This said, there remains concern as to what extent mineral revenues will be effectively managed in the absence of a special fund into which such revenues should be deposited. All royalties, rents, fees, and other forms of revenues collected by the URA are payable into the consolidated fund. The implication of this is that unlike petroleum revenues which have been earmarked to fund infrastructural and other development projects, mineral revenues are spent as part of the broader national budget. Similarly, there is presently no requirement for a portion of the collected mineral revenues to be invested for the benefit of present and future generations. These are all major gaps considering the special nature of extractive revenues. Like oil, minerals are finite resources and have the potential to distort economies. For this reason, mineral revenues should be spent in a manner that promotes macroeconomic stability and that encourages investment for future benefits. This can be successfully achieved through creation of a dedicated mineral revenue management and investment fund.

134 Part X Mining Act, 2003.
135 Ibid, Section 181.

4.0 OIL, GAS, AND MINERALS REVENUE SHARING

Revenue sharing/distribution is concerned with the way in which governments allocate and distribute natural resource revenues amongst different levels of government, institutions and/or citizens.[136] For countries to derive a lasting benefit from their resources, they must distribute/share revenues earned from their natural resource in an equitable manner. This entails the investment of resource revenues for optimal and equitable outcomes for both present and future generations. More specifically, resource revenues should be spent while taking into consideration those living in abject poverty, gender and those communities that are most affected by natural resource extractive activities. In the same measure, a portion of resource revenues should be saved for the benefit of future generations.[137]

4.1 Petroleum Royalty sharing

The rules governing the distribution and/or sharing of petroleum revenues in Uganda are contained in the Public Finance Management Act of 2015 (as amended). Section 75 provides that the central government shall retain 94% of all royalties earned from petroleum production.[138] The central government is however required to grant 1% of this revenue to gazetted cultural and traditional institutions found in the areas of petroleum exploration and production.[139]

The remaining 6% of all total revenues realised from the payment of petroleum royalties is required to be shared by local governments located within the petroleum exploration and production areas.[140] Of this, local governments involved in petroleum production are entitled to a 50% share.[141] The share is determined by the level of production or impact on the local government.[142]

The balance of 50% of the petroleum royalties due from the central

136 Revenue Management and Distribution, Addressing the Special Challenges of Resource Revenues to Generate Lasting Benefits, NRGI Reader, March 2015.

137 Natural Resource Charter, NRGI at pgs. 25-26

138 Section 75 (1), Public Finance Management Act, 2015 (as amended)

139 Ibid, Section 75 (8)

140 Ibid, Section 75 (1)

141 Ibid, Section 75 (3)

142 Ibid, Section 75 (3). See also Part 1 of the 6th Schedule to the Act

government is required to be shared by all local governments found in exploration and production areas.[143] The share of each local government is determined by the population size, geographical area, and terrain.[144]

Since local governments involved in petroleum production are already entitled to share in the first 50% of royalties, their ability to obtain an extra share in the additional 50% means that they get to share in the total of all (100%) of all petroleum royalties.[145] This arrangement is specifically recognized by the law.[146]

Once received, all royalties constitute part of the local government annual budget and may be used for development purposes.[147] Since the payment of royalties is tagged to petroleum production which is yet to commence, Uganda is yet to receive any revenues in the form of royalties. This being the case, local governments are also yet to start receiving petroleum royalties from the central government.

This notwithstanding, the findings of this study show that local governments are already concerned about various aspects of revenue sharing. According to many officials interviewed in this study, the current revenue sharing arrangement is inadequate and does not sufficiently take into consideration the number of responsibilities held and roles played by local governments.[148] Under the decentralization policy, local governments are charged with provision of a multitude of services to the population. In light of this, local governments' share of 6% in the total petroleum royalties is grossly inadequate considering that this is required to be shared amongst several local governments. This situation has been worsened by the creation of numerous new districts all of which will be entitled to a share in the availed revenues if they are located in petroleum exploration and exploitation areas.[149]

It has also been argued that local governments located in the exploration and production areas should be given a bigger share than that currently provided for since they will have to contend firsthand with the negative effects of petroleum activities. Such local governments are constantly exposed to risks such as environmental hazards. These can only be effectively prevented and managed where local governments have

143 Ibid, Section 75 (4)
144 Ibid
145 Ibid, Section 75 (5)
146 Ibid
147 Ibid, Section 75 (9) and 75 (10)
148 Interviews with Officials working in the local governments of Hoima, Buliisa and Kikuube, February 2022.
149 Ibid

the resources required. This concern was given as a justification as to why the current share of petroleum royalties due to local governments needs to be revised.[150]

Related to this, there were proposals for the share received by local governments to be streamlined and conditioned to fund specific activities and critical program areas such as health and education. Proponents of this proposal pointed out that it was critical to guard against wasteful expenditure and the use of the royalty share to cater for administrative allowances of district political leaders as has often been the case. The conditioning of royalty shares to specific programmes also ensures that the funds are utilized to address the communities' most pressing needs. In this way, there is accountability for revenues received by local governments found in petroleum exploration and production areas.[151]

4.2 Mining Royalty Sharing

The challenges relating to extractive revenue sharing are not restricted to the petroleum sector. Although mining laws provide for even more enhanced and equitable sharing formular for royalties i.e., 70% for the Central government, 15% for local governments, 10% for sub counties/ town councils and 5% for owners/ occupants of land subject to mineral rights, it has been pointed out above that several factors exist which work against the effective collection and realization of revenues from the sector.[152] This inevitably affects the total amount of royalties available for sharing.

There are remarkable delays in the transfer of royalties from the center to beneficiary local governments. Secondly, there is a lack of transparency in the determination of royalty shares due to local governments. In Mubende district for example, it was revealed that for the last two decades, the district local government has received less than UGX 10 million as mineral royalties from the central government. This is a huge concern considering that Mubende is one of the districts with the longest mining history in Uganda.[153]

The challenge of delayed royalty payments is acknowledged in the FY

150 Interviews with District Natural Resource Offices and Environmental Officers in Hoima, Buliisa and Kikuube, February 2022.
151 Interviews with Officials working in the local governments of Hoima, Buliisa and Kikuube, February 2022
152 Section 180 (4) and Schedule 2 Mining and Minerals Act, 2022.
153 Interview with Official working in the Finance Office, Mubende District Local Government, December 2021.

2019/20 and FY 2020/21 Uganda Extractive Industries Transparency Initiative reports. It is shown that of the UGX 7,039,636 total royalties collected by the URA in FY2019/20, UGX 2,369,310,643 was transferred to local governments and landowners by the Ministry of Energy and Mineral Development (MEMD) 2019/20. However, part of the transferred funds was meant to cater for spillovers from the past years.[154] Similarly of the UGX 8,704,703,985 collected by the URA in FY 2020/21 only UGX 1,740,940,797 was transferred by the MEMD.[155] This was notably below the threshold required to be transferred.[156] In all, delays to remit royalties to local governments and landowners as is required by law remains a major concern for mineral revenue sharing. The specific revenue sharing challenges in the sector notwithstanding, there is also concern over the discrepancy in the revenue share of local governments from the mining and petroleum industries. As has been shown above, local governments located in petroleum exploration and production areas are entitled to 6% of petroleum royalties. In contrast, local governments in mining areas are entitled to more than quadruple i.e., 25% of the realized royalties. No justification has been provided as to why the government decided to take a differential revenue sharing approach in this regard.

The failure of the central government to publicly disclose the amount of extractive revenues earned also poses several challenges for revenue sharing. It should be noted that it's not until May 2022 that the government first publicly disclosed the amount of revenues earned from its extractive industries. This was done as part of the requirements set by EITI and even then the information provided did not include revenues earned from the previous years.[157] The failure to disclose information relating to extractive revenues in the years preceding the compilation of the EITI report makes it difficult for citizens to track such revenues and to hold the state accountable. Most importantly, without information on the amount of revenues collected, it is difficult to ascertain whether the share paid to local governments and in some cases, landowners is fair, adequate, and equitable. In Mubende district for example, the local government received a lump sum payment from the MEMD without a clear explanation as to how it was arrived at and the mining duration and value of minerals to which the payment related.[158]

The situation is not any different in the petroleum sector where

154 UGEITI Report for FY 2019/20 at pg.92.
155 UGEITI Report for FY 2020/21 at pg.107.
156 Ibid.
157 UGEITI Report for FY 2019/20 at pg.92.
158 Ibid.

notwithstanding the fact that the country is yet to generate royalties, the agreements signed with international oil companies have not been publicly disclosed. Yet, in the context of petroleum, resource contracts specify the amount of royalties due from the companies at the time of production. This information is very critical for local governments to determine their fair share of the resource revenues received by the central government especially those in the form of royalties. Furthermore, being a member of the Extractive Industries Transparency Initiative (EITI), Uganda is required to publicly disclose details of all PSAs as well as revenues earned from the sector.

Table 8: Royalty Sharing – Minerals and Petroleum

Resource	Entity	Share	
		2022[159]	2003[160]
Minerals	Central Government	70%	80%
	Local Government	15%	17%
	Subcounty/Town Council	10%	
	Landowners/Lawful Occupants	5%	3%
Petroleum	Central Government	93%	
	Local Government	6%	
	Traditional Authorities	1%	

Source: Mining and Minerals Act, 2022; Mining Act, 2003; and Public Finance Management Act, 2015 (as amended).

More concerning is that in practice, local governments have not effectively benefited from their share of royalties. In Mubende where substantial gold mining has been ongoing for more than 15 years, the local government has received royalties only once and even then, this was less than UGX 10,000,000. The major challenge is that local governments often lack information about the exploited minerals and the resultant royalties payable. Mining companies/individuals rarely provide information on the extracted minerals. For this reason, the local governments have to rely on information provided by the Ministry of Energy and Mineral Development which is very rare. Consequently, they are left in the dark and are unable to follow up with the ministry on the share of royalties due to them.

159 Mining and Minerals Act, 2022
160 Mining Act, 2003

5.0 CONCLUSIONS AND RECOMMENDATIONS

Overall, Uganda has a fairly comprehensive and robust fiscal regime on oil, gas, and minerals. The fiscal regime is comprised of different forms of tax and non-tax instruments covering CIT, CGT, WHT, PAYE/LST, VAT, royalties, fees, levies, institutional contributions, and bonus payments. If well implemented, the fiscal regime can facilitate revenue maximization in the extractive industries and boost current domestic revenue mobilization efforts. This is a more reliable and sustainable approach for financing present budgetary needs and the current development funding shortfalls.

The oil and gas sector fiscal regime is complemented by a well-established revenue management framework that among others supports the establishment of a specialized Fund into which all revenues must be paid. All withdrawals from this Fund require parliamentary approval and are subject to a warrant of the Auditor General. The appropriated funds are required to be spent on infrastructure and other development projects of government and the balances invested for the benefit of present and future generations.

In terms of revenue sharing, there exists a formular for sharing of royalties earned from oil, gas, and minerals between the central government and local governments in areas where these resources are found. This notwithstanding, several challenges still exist in revenue generation, management, and sharing. Stabilization clauses contained in most of the resource contracts signed so far constitute a revenue loss risk and greatly restrict the ability of the government of Uganda to pursue tax reforms necessary for maximization of revenues from the sector. Similar challenges arise from the various DTAs which act as a major avenue for tax avoidance and evasion for international oil companies. Also, delays in enactment of fiscal rules to guide appropriations from the Fund put the country at a high risk of wasteful expenditure and economic distortions commonly associated with oil windfalls.

Uganda is yet to operationalize the Petroleum Revenue Investment Reserve – an institution with the mandate to invest part of the oil and gas revenues for the future benefit. There is no mechanism for verification of petroleum revenue expenditures to ensure that they have been spent on infrastructure and development projects as stipulated in the law. This is a huge risk considering that the country has so far spent close to UGX 580 billion from the petroleum fund on unspecified budgetary activities.

In the mining sector, the level of informality, poor coordination between URA and DGSM, corruption and secrecy have greatly undermined the enforcement of tax and non-tax revenue payments required to be made by companies. There is also lack of a comprehensive framework for the management and expenditure of revenues. However, the share of local governments in mining royalties (25%) is higher than in the oil and gas sector (6%). The challenge is that this share is rarely paid to local governments on time and where payment has been made it does not reflect the true picture of the royalties that ought to have been collected.

Given the challenges highlighted above in revenue generation, management, and sharing, the study makes recommendations to the central government, Parliament, local governments, and oil, gas, and mineral companies.

The Central Government through relevant MDAs should, among others;

Implement fiscal rule enacted to guide appropriation and expenditure of petroleum revenues: This will provide a long-lasting constraint on fiscal policy through numerical limits on budgetary aggregates. If well implemented, fiscal rules typically help in correcting distorted incentives and containing pressures to overspend, particularly in good times, so as to ensure fiscal responsibility and debt sustainability. This will promote macroeconomic stability and help guard against economic distortions that are often caused by oil and other natural resource windfalls.

Strengthen tax administration and enforcement to improve compliance and reduce tax evasion: Provide further support URA to develop enforcement capacity to collect taxes from especially powerful international oil, gas, and mining companies. In particular, the current international tax unit within the URA should be expanded and empowered to detect and guard against the practice of multinational enterprises in the extractives sectors manipulating tax rules to pay less than their fair share of taxes.

Renegotiate restrictive PSAs: Initiate negotiations to review and amend Production Sharing Agreements (PSAs) containing restrictive stabilization clauses. These clauses limit the State’s ability to introduce reforms crucial for revenue maximization. Immediate action is necessary to address these constraints. It is clear that the circumstances under which these agreements were made have since changed and this provides government an opportunity to renegotiate better terms.

Establish Model Mining Agreement: The Ministry of Energy and Mineral Development should develop and implement a Model Mining Agreement approved by Parliament. This will serve as a basis for negotiations between the government and prospective mining companies, ensuring transparency and fair terms in the extractive industries.

Expedite DTA Renegotiations: Expedite the renegotiation of existing Double Taxation Agreements (DTAs) that currently provide unfair advantages to multinational oil, gas, and mining companies. The country can learn from successful renegotiations in other African countries such as South Africa, Rwanda, Malawi, Zambia, and Senegal, all of which have successfully renegotiated some of the restrictive and harmful DTAs to ensure a fair and equitable tax regime.

Publish all past and current oil and mining resource agreements: To enhance transparency and accountability, fast-track the process of publishing all past and current oil and mining resource agreements. With Uganda's EITI membership since 2020, it is imperative to meet the mandatory requirement of publishing all future oil, gas, and mining agreements. This action will foster public trust and align with international best practices in resource governance. This will provide a mechanism for citizens to access information on payments received by the Uganda government from the extractive industries.

Enact a dedicated law on EITI: Prioritize enacting a specific law to operationalize the Extractive Industries Transparency Initiative principles and standards. Although Uganda is currently an EITI member, several EITI standards cannot be effectively implemented in the absence of a specialized law on EITI. The enactment of a dedicated law also makes it possible for the various EITI standards to be legally enforced.

Finalize the petroleum revenue investment framework: This will, among others, operationalize the Petroleum Revenue Investment Reserve and ensure that all investments are made in a manner that does not jeorpadize the macroenomic stability of the country.

Develop a mechanism for tracking and verification of expenditure of revenues appropriated from the petroleum fund: This will ensure that such revenues are spent in accordance with the provisions of the law that require all appropriations from the fund to be utilised for infrastructure and development projects of government and not on recurrent expenditure.

Amend the Public Finance Management Act of 2015 to create a separate Fund for mineral revenues: Initiate an amendment to the PFMA to establish a dedicated Fund which will serve as a depository for all revenues accruing to government from minerals and related activities as it is the case with oil and gas revenue. The amendment should also introduce funding conditionalities on the expenditure of the revenue from minerals and related activities including royalties to local governments. It is important that local government utilizes their royalty share to implement locally beneficial projects other than administrative costs as is often the case. This will ensure that the purpose for which the law was enacted is fulfilled i.e., to benefit communities found in areas where petroleum activities take place. Such a step will also help build trust and accountability.

Initiate environmental regulatory empowerment at local government level: Explore mechanisms to empower local governments in environmental regulatory roles related to extractive industries. Currently, local governments are less involved in process of conducting environment impact assessments and yet there are in a better place to monitor environmental compliance. Local governments should therefore be supported to execute their environmental impact monitoring role.

Ensure timely and regular disbursement of royalties due to local governments: All royalties due to local governments and to landowners should be paid promptly with disclosures of the total amounts received, periods for which the revenues are received and how the shares were arrived at. This disbursement should also be published for ensuring transparency and accountability.

Expedite an audit of all ASM involved in the mining sector for purposes of effective regulation: This process should be accompanied by deliberate attempts to regularize and regulate the ASM sector as provided for in Mining and Minerals Act of 2022. This is critical for the development of this sector and has the potential to enhance the amount of revenue collected. The formalization of the ASM will also ensure that the sector is better organized and able to respond to environmental risks that arise from rudimentary mining practices to mitigate the cost on future environmental restoration.

Develop subsidiary legislation to guide the determination of fees payable under the Physical Planning Act: Currently, local governments in the oil region charge a fee of UGX 50,000 to grant development permission. This is very low when compared to the nature of developments in the extractive industries sector. The fees applicable should therefore take into consideration the nature, impact, and purpose of the development.

Undertake tax incentive rationalization as part of the effort to improve revenue mobilization: As the study has found out, there are a number of unjustified tax incentives in form of tax holidays and tax exemptions. These incentives deny the country the necessary revenue and yet, they have not been able to achieve the intended purpose or they have outlived their usefulness. Government should take bold steps to improve governance of tax incentives to reduce revenue loss from all sectors of the economy including extractives.

The relevant oversight committees of the Parliament of Uganda should;

Require Ministry of Finance to develop a revenue expenditure verification mechanism before making any appropriations from the Petroleum Fund: Such a mechanism verifies the legal and administrative compliance to ensure that the expenditure of resource revenues is within the law which prioritizes infrastructure and other development projects as opposed to recurrent expenditure. Without an effective revenue expenditure control mechanism not only threatens macroeconomic stability and fiscal discipline, but also effect the integrity of the public financial management system and undermine trust in the government as a custodian of public resources.

Demand tabling of EITI reports before Parliament and provide oversight on the implementation of recommendations: The relevant Minister should periodically provide an update on the status of implementation of the recommendations from these reports.

Local Governments should;

Spend royalties on community development projects: Local Governments should utilize their share of royalties and other resource revenues received on community development projects rather than administrative costs.

Demand for recruitment and filling vacant critical positions that is affecting service delivery: Understaffing and failure to fill critical positions has led to challenges relating to the functionality of various departments in the districts. Currently, several local governments remain understaffed which undermines their capacity to generate and utilize the allocated resource revenues. The central government should provide for funds necessary to fill critical vacant positions.

Leverage, besides taxes, other sources of extractive revenues: These include the different forms of fees required to be paid under the law such as building permits, occupational permits, Local Service Tax and other levies.

Oil, Gas, and Mining Companies should;

Embrace responsible business practices: Companies should not only be driven by profit, but should also consider improving livelihoods, environmental safety, and better working conditions in the areas where they operate. They should comply with tax laws and pay a fair share of the tax.

Publicly disclose all payments made to the government of Uganda: Extractive companies should also publish on a regular basis comprehensive records of all resource payments made to the government of Uganda. This is consistent with transparency and accountability principles provided for under EITI initiative to which Uganda is a member.

REFERENCES

Ministry of Finance, Planning and Economic Development. (2019). *Domestic Revenue Mobilisation Strategy 2019/20 - 2023/24*. Kampala: Ministry of Finance, Planning, and Economic Development.

Organisation for Economic Cooperation and Development. (2021, December 15). *Africa: The Rising Debt Burden Highlights the need for Further Progress in Domestic Revenue Mobilisation*. Retrieved from OECD: https://www.oecd.org/ctp/tax-policy/africa-the-rising-debt-burden-highlights-the-need-for-further-progress-in-domestic-revenue-mobilisation.htm#:~:text=The%20report%20includes%20a%20special,tax%20levels%20over%20this%20period

Ministry of Finance, Planning, and Economic Development. (2022). *Budget Strategy for FY 2023/24, National Budget Conference*. Kampala: Ministry of Finance, Planning and Economic Development.

Ministry of Finance, Planning, and Economic Development. (2019). *Uganda's Mineral and Mining Subsector: What can be Done to Harness its Full Potential?* Kampala: Budget, Monitoring and Accountability Unit.

Bank of Uganda. (2019). *Annual Report 2020/21* . Kampala: Bank of Uganda.

DT Global. (2023). *Uganda Extractive Industries Transparency Initiative Report for Fiscal Year 2020-21*. Kampala: UGEITI.

Bank of Uganda. (2022). *Annual Reports FY 2015/16 – FY 2020/21*. Kampala: Bank of Uganda.

The Independent. (2022, February 1). *Historic: Final Decision on $10billion Uganda Project*. Retrieved from https://www.independent.co.ug/historic-final-decision-on-10bn-uganda-oil-project/

Petroleum Authority of Uganda. (2022, February 1). *Announcement of the Final Investment Decision brings Uganda Closer to First Oil*. Kampala.

DT Global. (2022). *Uganda Extractive Industries Transparency Initiative Report for Fiscal Year 2019 – 20*. Kampala: UGEITI.

Natural Resource Governance Institute. (2015, March 1). *Fiscal Regime Design, What Revenues the Government will be Entitled to Collect, NRGI Reader*. Retrieved from Resource Governance: https://resourcegovernance.org/sites/default/files/nrgi_Fiscal-Regime-Design.pdf

Emma Chamberlain et al. (2006). *Revenue Law Principles and Practice, 23rd Edition*. Total Publishing.

Republic of Uganda. (1995). *Constitution of the Republic of Uganda, 1995 (as amended)*. Entebbe: Uganda Printing and Publishing Corporation.

Republic of Uganda. (n.d.). *Income Tax Act cap 340 (as amended)*. Entebbe: Uganda Printing and Publishing Corporation.

Natural Resource Governance Institute. (2017). *Natural Resource Governance Glossary*. Natural Resource Governance Institute.

Republic of Burundi. (2013). *Burundi Law no. 1/02* . Bujumbura.

Republic of Kenya. (n.d.). *Kenya Income Tax Act cap 470 (as amended)*. Nairobi.

Republic of Tanzania. (n.d.). *Tanzania Income Tax Act cap 332 (Revised Edition)*. Dar es Salaam.

Republic of Rwanda. (2018). *Rwanda Law no. 016/2018*. Kigali.

Tax Justice Network. (2020, November 14). *Tax Competition and the Race to the Bottom*. Retrieved from taxjustice.net: https://taxjustice.net/topics/tax-competition-and-the-race-to-the-bottom/

Maria Lawa Barreto, P. S. (2018, Mach 1). *Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold*. Retrieved from Alliance for Responsible Mining: https://www.responsiblemines.org/wp-content/uploads/2018/03/Uganda_case_study.pdf

Scurfield, T. (2018). *The Fiscal Regime for Uganda's Mining Sector: A Need for Reform?* Natural Resource Governance Institute, Kampala, 2018. Retrieved from Resource Governance: https://resourcegovernance.org/analysis-tools/publications/fiscal-regime-uganda-mining-sector-need-reform

Office of the Auditor General. (2020). *Annual Report of the Auditor General on the Financial Statements of the GOU for the Financial Year Ended 30th June 2020, Central Government and Statutory Corporations*. Kampala: Office of the Auditor General.

Heritage Oil and Gas Ltd v. URA , TAT App. No 26 (Tax Appeals Tribunal 2010).

Heritage Oil and Gas Ltd v. URA, Civil Appeal No. 14 (High Court 2011).

New Vision. (2013, April 04). *Uganda has won a Landmark $434m (over Shs. 1.1 trillion) Oil Tax Case in London against Heritage Oil and Gas Ltd. Retrieved from New Vision: https://www.newvision.co.ug/news/1316689/uganda-wins-heritage-oil*

Wilson, R. (2016, April 08). *Panama Papers: How Jersey Based Oil Firm Avoided Taxes in Uganda*. Retrieved from BBC: https://www.bbc.com/news/world-africa-35985463

Bank Of Uganda. (2016). *Bank Of Uganda Annual Report 2015/16*. Kampala: Bank Of Uganda .

Tullow Uganda Ltd & Tullow Operational Pty Ltd v. URA, , TAT Application No.4 (Tax Appeals Tribunal 2011).

Republic of Uganda. (2008). *Local Government (Amendment) Act 2008*. Entebbe: Uganda Printing and Publishing Corporation.

Republic of Uganda. (2014). *Stamp Duty Act 2014 (as amended)*. Entebbe: Uganda Printing and Publishing Corporation.

Republic of Uganda. (n.d.). *Value Added Tax cap 349 (as amended)*. Entebbe: Uganda Printing and Publishing Corporation.

NRGI. (2010, January 01). *Oil Gas and Mining Fiscal Terms*. Retrieved from Resource Governance: https://resourcegovernance.org/analysis-tools/publications/oil-gas-and-mining-fiscal-terms

Republic of Uganda. (2022). *The Mining and Minerals Act 2022*. Entebbe: Uganda Printing and Publishing Corporation.

Republic of Uganda. (2003). *Mineral Act 2003*. Entebbe: Uganda Printing and Publishing Corporation.

Ministry of Energy and Mineral Development. (2004). *Mining Regulations SI no. 71 of 2004*. Kampala: Ministry of Energy and Mineral Development.

Office of the Auditor General. (2017). *Extracts of Findings of the Auditor Generals Annual Report to Parliament*. Kampala: Office of the Auditor General.

Office of the Auditor General. (2019). *Key Highlights of the Auditor General's Report to Parliament*. Kampala: Office of the Auditor General.

The United Republic of Tanzania. (2019). *Mining Act (Revised Edition 2019)*. Dar es Salaam: The United Republic of Tanzania.

Republic of Kenya. (2016). *Mining Act 2016*. Nairobi: Republic of Kenya.

Republic of Rwanda. (2013). *Rwanda Law on Mineral Taxes 2013*. Kigali: Republic of Rwanda.

Republic of Uganda. (2013). *Petroleum (Exploration, Development and Production Act) 2013*. Entebbe: Uganda Printing and Publishing Corporation.

Republic of Uganda. (2021). *Mining (Amendment) Act 2021*. Entebbe: Uganda Printing and Publishing Corporation.

Bank of Uganda. (2017). *Bank of Uganda Annual Report 2016/17*. Kampala: Bank of Uganda.

Nakaweesi, D. (2021, September 20). *No Gold Exports were recorded in July, Receipts Drop by 51%*. Retrieved from Daily Monitor: https://www.monitor.co.ug/uganda/business/markets/no-gold-exports-were-recorded-in-july-receipts-drop-by-51--35567600

Kamoga, J. (2021, November 06). *New Export Tax on Gold cost Uganda $720 million*. Retrieved from The East African: https://www.theeastafrican.co.ke/tea/business/new-export-tax-on-gold-costs-uganda-720m-3610102

NRGI Reader. (2015, March). *Fiscal Regime Design: What Revenues the Government Will be Entitled to Collect*. Retrieved from Natural Resource Governance Institute: https://resourcegovernance.org/sites/default/files/nrgi_Fiscal-Regime-Design.pdf

Ugand National oil Company. (2016). *2016 Uganda Model Production Sharing Agreement*. Retrieved from Ugand National oil Company: https://www.unoc.co.ug/wp-content/uploads/2018/06/MPSA.pdf

Odyek, J. (2017, September 15). *Government gets Shs. 1 trillion in Oil Signature Bonus*. Retrieved from New Vision: https://www.newvision.co.ug/news/1461677/government-sh1-trillion-oil-signature-bonus

International Bureau of Fiscal Documentation. (2006, September 10). *Convention between The Kingdom of the Netherlands and the Republic of Uganda for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income*. Retrieved from Uganda Revenue Authority: https://ura.go.ug/en/netherlands-uganda-income-tax-treaty/

Economic Commission for Africa. (2021, July 08). *Illicit Financial Flow: Report of the High Level Panel on Illicit Financial Flows from Africa*. Retrieved from African Union: https://au.int/sites/default/files/documents/40545-doc-IFFs_REPORT.pdf

OECD. (n.d.). *Action 6 Prevention of tax treaty abuse*. Retrieved from OECD: https://www.oecd.org/tax/beps/beps-actions/action6/

Henrique Alencar, C. A. (2020, October 01). *"Cursed by Design: How the Uganda-Netherlands Tax Agreement is Denying Uganda a Fair Share of Oil Revenues."* Retrieved from Oxfam: https://uganda.oxfam.org/latest/policy-paper/money-pipe

Maria Lawa Barreto, P. S. (2018). *Understanding the Economic Contribution of Small-Scale Mining in Uganda: Clay and Gold*. Alliance for Responsible Mining.

Office of the Auditor General. (2015). *Report on Regulation, Monitoring and Promotion of the Mining Sector by Ministry of Energy and Mineral Development*. Kampala: Office of the Auditor General.

Global Witness. (June 2017). *Undermined: How Corruption, Mismanagement & Political Influence is Undermining Investment in Uganda's Mining Sector and Threatening People and the Environment*. Kampala: Global Witness.

Africa Gold Refinery. (2017, November 20). *Press Release: African Gold Refinery*. Retrieved from Africa Gold Refinery: http://www.africagoldref.com/media/index.html

Natural Resource Governance Institutte. (2015, March). *Revenue Management and Distribution: Addressing the Special Challenges of Resource Revenues to Generate Lasting Benefits*. Retrieved from Natural Resource Governance Institutte: https://resourcegovernance.org/sites/default/files/nrgi_Revenue-Management.pdf

Natural Resource Governance Institute. (2017, February). *Natural Resource Governance Glossary*. Retrieved from Natural Resource Governance Institute: https://resourcegovernance.org/sites/default/files/documents/natural-resource-governance-glossary.pdf

Republic of Uganda. (2015). *Public Finance Management Act, 2015 (as amended)*. Entebbe: Uganda Printing and Publishing Corporation.

Office of the Auditor General. (December 2019). *Report of the Auditor*

General to Parliament for the Financial Year Ended 30th June 2019. Kampala: Office of the Auditor General.

Natural Resource Governance Institute. (2014, June 19). *Natural Resource Charter*. Retrieved from Natural Resource Governance Institute: https://resourcegovernance.org/sites/default/files/NRCJ1193_natural_resource_charter_19.6.14.pdf

ABOUT ACODE

The Advocates Coalition for Development and Environment (ACODE) is an independent public policy research and advocacy think tank based in Uganda. ACODE's work focuses on four programme areas: Economic Governance; Environment and Natural Resources Governance; Democracy, Peace and Security; Science, Technology and Innovation. For the last eight consecutive years, ACODE has been ranked as the best think tank in Uganda and one of the top 100 think tanks in Sub-Saharan Africa and globally in the Global Think Tanks Index Report published by the University of Pennsylvania Think Tanks and Civil Societies Program (TTCSP).

9 789970 567362

Advocates Coalition on Development and Environment (ACODE)
Plot 96 Kanjokya Street, Kamwokya
P O. Box 29386, Kampala
Tel: +256 312 812 150, Email: acode@acode-u.org
Website: http://www.acode-u.org