

## Supporting Inclusive Resource Development (SIRD) East Africa

### Health and Safety Laws and Practice

Lynn Gitu- Program Leader, IMPACT-Transforming Natural Resource Management



THE CANADIAN  
BAR ASSOCIATION



Global Affairs  
Canada    Affaires mondiales  
Canada



LAW SOCIETY OF KENYA



Tanganyika  
Law Society



UGANDA LAW SOCIETY

# What is Occupational Health and Safety (OHS)?

---

As defined by the World Health Organization (WHO) “**occupational health** deals with all aspects of health and safety in the workplace and has a strong focus on primary prevention of hazards.”

**Health** has been defined as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”

**Occupational health and safety**, therefore, is concerned with enabling an individual to undertake their occupation, in the way that causes least harm to their health. Promotion of health and safety at work, is, essentially, preventing harm from any incidental hazards, arising in the workplace.



# What is OHS? (cont'd)

---

The International Labour Organization (ILO) and the World Health Organization (WHO) share a common definition of occupational health. The definition reads as follows:

The main focus in occupational health is on three different objectives:

- (i) the maintenance and promotion of workers' health and working capacity;
- (ii) the improvement of working environment and work to become conducive to safety and health and
- (iii) development of work organizations and **working cultures** in a direction which supports health and safety at work and in doing so also **promotes a positive social climate** and smooth operation and may enhance productivity of the undertakings.

The concept of **working culture** is intended in this context to mean a reflection of the essential value systems adopted by the undertaking concerned. Such a culture is reflected in practice in the managerial systems, personnel policy, principles for participation, training policies and quality management of the undertaking.



# Existing Laws and Policies on Labour & OSH in Uganda

---

The Constitution of Uganda. (Article 40)

The Occupational Safety and Health Act, 2006 (Act No. 9)

National Policy on HIV/AIDS and the World of Work.

The Employment Act, 2006 (Act No. 6)

The Employment (Sexual Harassment) Regulations, 2012.

The National Employment Policy for Uganda, 2011

Workers' Compensation Act, 2000 (No. 8 of 2000) (Cap. 225).

National Environment (Noise Standards and Control) Regulations, 2003 (S.I. No. 30 of 2003).

The Mining Act, 2003

The National Oil and Gas Policy, 2008

The Petroleum (Exploration, Development and Production) Act, 2013

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

The Petroleum (Refining, Conversion, Transmission and Midstream storage) (Health, Safety and Environment) Regulations, 2016.

The National Content Policy for the Petroleum Subsector, 2017



# Rights within the Labour and OSH context in the Constitution of Uganda

---

**Article 40. Economic rights-** the right of persons to work under satisfactory, safe and healthy conditions; (*OSH Act*)

- the right to equal payment for equal work without discrimination; (*Employment Act*)
- the right to rest and reasonable working hours and periods of holidays with pay, as well as remuneration for public holidays. ( *Employment Act*)
- the right to practise his or her profession and to carry on any lawful occupation, trade or business. (*Employment Act*)
- the right to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests; to collective bargaining and representation; and to withdraw his or her labour according to law. ( *Employment Act*)
- the rights accorded to women in pregnancy and after birth. (*Employment Act*)



# Relevant Institutions in the Labour and OSH context in Uganda

---

- ❑ The Ministry of Gender, Labour and Social Development (**MoGLSD**) specifically the departments of Labour and Occupational Health and Safety
- ❑ The Ministry of Energy and Mineral Development specifically the Directorates of Petroleum and Geological Survey and Mines.
- ❑ The Petroleum Authority



# Labour & OSH in the Petroleum Sector

---

- ❑ The Petroleum industry is highly capitalised; much of the manual work has been replaced by automation. However, there is still much of the sector that requires human input.
- ❑ Contracting is big in the petroleum sector thus it is important to distinguish between **contractor worker/sub contractor worker** and **operator staff** as well as **casual labour**.
- ❑ The sector is as highly paying as it is highly specialised.
- ❑ The sector is big on health and safety, in part, due to the highly specialised nature of its workers. Petroleum companies rigorously check safety statistics everyday.
- ❑ Contractor workers, though, often face health and safety challenges because of a reasons including but not limited to; unfamiliarity with work places to which they go temporarily, they are under greater pressure to deliver and are often doing the most dangerous of the sector's jobs.



# Specific Law on Labour & OSH in Uganda's Petroleum Sector

---

- ❑ The Petroleum (Exploration, Development and Production) Act, 2013- Sections 126 & 127 provide for training and employment of Ugandans and training and technology transfer respectively. Also, Part XII provides wholly for Health and Safety in the Upstream stage
- ❑ Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013- Sections 52-55 provide for state participation and national content. Further, Part X provides for health and safety in the midstream stage
- ❑ The Petroleum (Refining, Conversion, Transmission and Midstream storage) (Health, Safety and Environment) Regulations, 2016.
- ❑ The National Content Policy for the Petroleum Subsector, 2017





# Realities of Labour in Uganda's Petroleum Sector

---

A 2015 Uganda Auditor General's office report highlighted the following;

- ❑ The proportion of Ugandans employed in the oil and gas sector directly by the oil companies rose from 69% in 2012 to 80% in 2014, although absolute numbers dropped over the same period.
- ❑ No special consideration was/is given to host communities or women during the recruitment of skilled personnel.
- ❑ As at December 2014, women accounted for 30%, 37% and 23% of the staff at China National Offshore Oil Corporation (CNOOC) Uganda Ltd., Total E&P (TEP) Uganda and Tullow Uganda Operations Pty (TUOP) Ltd respectively.
- ❑ Wide range in the wage differentials between the nationals and expatriate staff. In some cases expatriates, on average, earned between 5 to 10 times more than nationals especially in (CNOOC & TEP). TUOP had more Ugandan nationals in managerial positions than TEP and CNOOC. For employees in middle management, the average ratio of an expatriate's salary to a national's stood at 3:1, 7:1 and 6:1 for TUOP, TEP and CNOOC, respectively



# Labour & OSH in the Artisanal and Small Scale Mining (ASM) Sector

---

❑ Small scale miners often operate in hazardous working conditions

❑ According to the ILO, the five major health risks associated with ASM are;

1. Exposure to dust (silicosis)
2. Exposure to mercury and other chemicals
3. The effects of noise and vibrations
4. The effects of poor ventilation (heat, humidity, lack of oxygen)
5. The effects of overexertion, inadequate workspace and inappropriate equipment



# Labour & OSH in the ASM Sector (cont'd)

---

- ❑ Children of artisanal miners are particularly at risk as often mine sites with multiple open pits are breeding grounds for waterborne diseases such as malaria and bilharzia
- ❑ Additionally, there are many and frequent accidents in ASM. The five most often cited causes include;
  1. Rock falls and subsidence
  2. Lack of ventilation
  3. Misuse of explosives
  4. Lack of knowledge and training
  5. Obsolete and poorly maintained equipment



# Artisanal and Small Scale Mining (ASM) in Uganda

---

- ❑ The absence of widespread, large-scale mining in Uganda means that artisanal and small-scale mining (ASM) makes up to 90 per cent of Uganda's minerals production. ASM activities focus on a number of different minerals, including gold, tin, tungsten, coltan, gemstones, limestone, marble, kaolin, clay, granite, rock salt and several other development minerals.
- ❑ The sector is a significant source of employment and economic activity: an estimated 150,000 to 200,000 women and men are directly involved in ASM, with up to 1,000,000 indirectly benefitting from these activities. Almost half of ASM miners are women, though at some sites, women can make up 70 per cent of the workforce.



# Labour & OSH in Uganda's ASM Sector

---

- ❑ Little or no knowledge of the legislation governing mining operations; including—beyond mining legislation—relevant environmental legislation, occupational health and safety legislation, and employment and child labour legislation.
- ❑ Although Uganda recently ratified the Minamata Convention on Mercury, there is no legislation in place specifically regulating mercury or cyanide, which are potentially hazardous to human health and the environment.
- ❑ Fatalities and serious injuries due to collapse of pit walls or underground tunnels. Between **one to five** deaths are reported to occur annually and of course many more are likely not reported.
- ❑ Lack of regulation and organisation in the ASM sector means use of PPE is rare in the sector
- ❑ Discrimination and sexual harassment of women in the sector is rampant



# Key Issues Regarding OSH in Uganda's Extractives Industry

---

1. The Occupational Safety and Health Act, 2006 has provisions for regulation of OSH in all industries but makes no specific provisions related to petroleum and mining operations. For example, the same regulations used in the manufacturing industries are the ones that are used in mining.
2. The provisions in the Mining Act, 2003 regulating mine safety are inadequate and the Mining (Safety) Regulations in place are outdated and unenforceable.
3. The OSH laws and regulations are at best, gender blind and thus cannot speak to the many OSH challenges specific to women involved in the extractives sector. The situation is particularly dire if you consider that 90% of the country's mining sector is constituted by artisanal and small scale miners half of whom are women.



# Key Issues Regarding OSH in Uganda's Extractives Industry (Cont'd)

---

4. Out of 1,624 EIAs approved by NEMA between 2013-2015, MoGLSD reviewed only 92 EIAs representing 5.7% of the reports, leaving 1,532 EIAs (94.3%) not reviewed.

5. Due to inadequate awareness and sensitization on OSH standards, limited personnel and logistics, enforcement of the OSH legislation has not been effective. For example while the ILO standard of inspector to worker ratio is 1:500, in Uganda, the population employed is estimated at 7.9 million as compared to the **18 inspectors**, which implies an inspector to worker ratio of 1:438,889.

6. The lack of a National OSH Policy and an OSH Laboratory to analyze exposure measurement samples and to test personal protective equipment, such as respirator cartridges or glove resistance to chemicals.



# Managing OSH Risks in the Extractives Sector

---

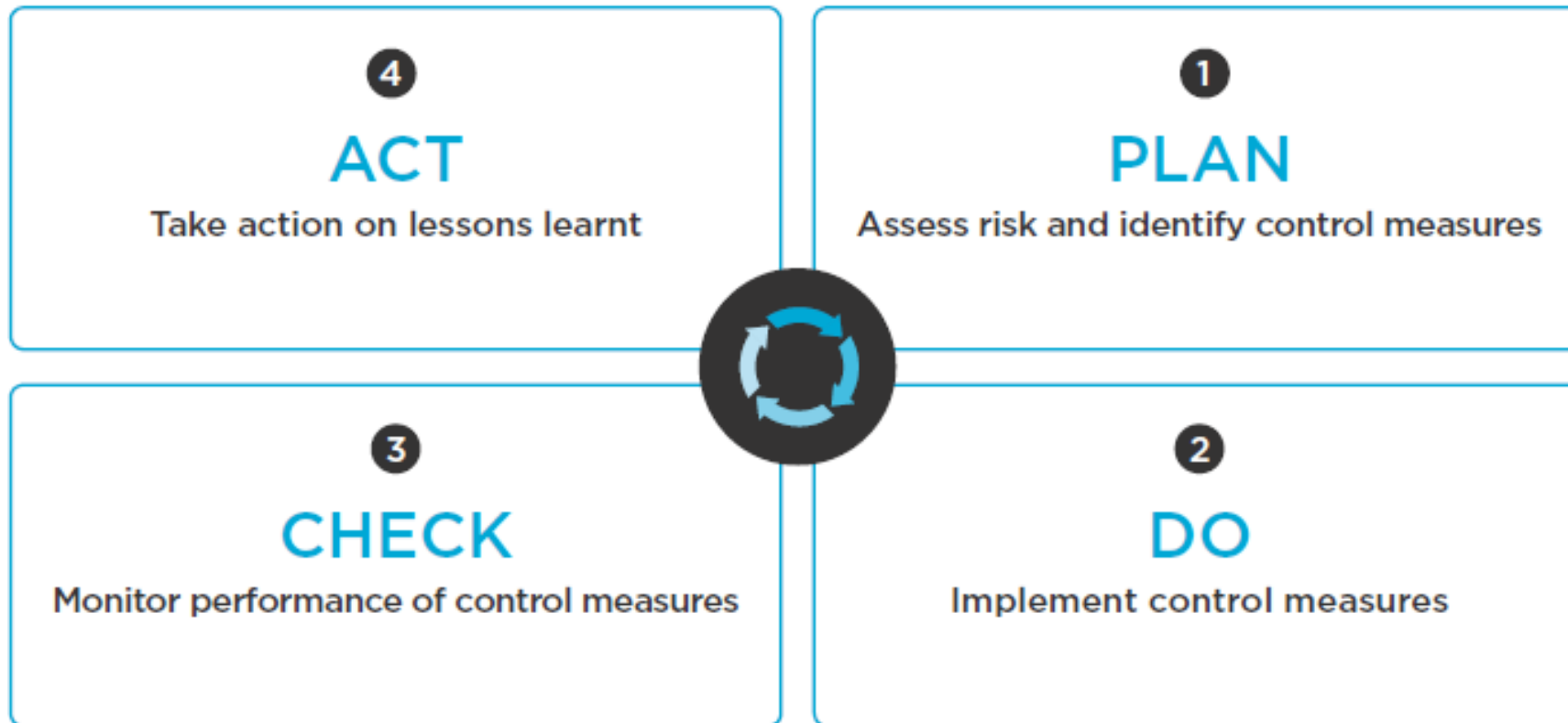
- On the whole, Uganda's Occupational Safety and Health Act, 2006 imposes on all employers a duty of the provision and maintenance of a working environment for the workers, that is, as far as is reasonably practicable, safe, without risks to health and which is adequate, regarding facilities and arrangements for the welfare of workers at work;
- As well, there is the provision, where necessary, of adequate personal protective equipment to prevent, as far as is reasonably practicable, the risks of accidents or of adverse effects on health.





# Managing OSH Risks in the Extractives Sector

---



## PLAN

Identify hazards that could reasonably foreseeably create a risk to health and safety, Assess each risk and identify control measures, Assess the likelihood of it happening in your workplace – could it happen to your workers? Engage workers and representatives to identify reasonably practicable control measures.

## DO

Implement control measures to effectively minimise the likelihood of the risk happening.

## CHECK

Monitor health of workers and exposure of workers to health risks. Implement appropriate means for workers to report new hazards and risks and changes to existing ones.

## ACT

Take action on exposure and health monitoring results. Routinely review the effectiveness of control measures at scheduled periods. Review incidents and talk to your workers to check that the control measures are effectively minimising the risk. Use the results of your reviews and investigations into incidents to improve control measures.



# THANK YOU!

---

**Any Questions & OR  
Comments?**

