How Can Ghana Avoid An Oil Curse? Lessons From Nigeria

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HOW CAN GHANA AVOID AN OIL CURSE? LESSONS FROM NIGERIA

A THESIS SUBMITTED TO THE DEPARTMENT OF INTERNATIONAL RELATIONS IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF BACHELOR
OF ARTS WITH HONORS

BY

MICHAEL YAMOAH

HELENA, MONTANA

APRIL 2013
SIGNATURE PAGE

This thesis for honors recognition has been approved for the Department of International Relations.

[Signatures and dates]

Director

Date

Reader

Date

Reader

Date
Since Ghana discovered oil in large commercial quantities in 2007, many have questioned whether the country can avoid the resource curse. Defined as the inability of resource rich developing nations to benefit from such resource compared to non-resource rich nations, this thesis has proven mostly true in many developing nations. In this paper, I examine the importance of institutional quality in relation to avoiding the resource curse. I do this by methodically analyzing in historical context various indicators (Rule of Law, Effective Governance and Openness and Accountability), and argue that, resources (in this case, oil) are not in themselves a curse, rather the nature of institutions, whether curse resistant or curse receptive determines such outcome. Through a comparative case study of Nigeria (1960-2000) and Ghana (1972-2012), I demonstrate how weaknesses in the former’s institutional environment (very weak rule of law, ineffective governance and the lack of openness and accountability), contributed to the country’s demise as a resource cursed nation. I also examine Ghana in the same way, demonstrating that the country’s institutions are relatively susceptible to the resource curse due to the mediocre state of its institutional environment and fairly weak rule of law.

Keywords: Resource Curse, Curse Resistant Institutions, Curse Receptive Institutions, Rule of Law, Effective Governance, Openness and Accountability
I dedicate this thesis to my dearest mom, Gertrude Yamoah (Ama Gerty).
"In the very early days of the Christian era, long before England had assumed any importance, long even before her people had united into a nation, our ancestors had attained a great empire, which lasted until the eleventh century, when it fell before the attacks of the Moors of the North. At its height that empire stretched from Timbuctu to Bamako, and even as far as to the Atlantic. It is said that lawyers and scholars were much respected in that empire and that the inhabitants of Ghana wore garments of wool, cotton, silk and velvet. There was trade in copper, gold and textile fabrics, and jewels and weapons of gold and silver were carried."

Dr. Kwame Nkrumah
My sincerest gratitude goes to my thesis director, Dr. Erik Pratt, who helped guide and shape the focus, direction and content of my thesis from the very beginning. He challenged me to think independently, constructively critiqued my work, allowing me to perfect it. His contribution is beyond any measure and I cannot say thank you enough. I also want to thank my readers, Dr. Brian Martz and Dr. Douglas Mackenzie, for taking the time out of their busy schedules to accommodate the reading of my thesis. Dr. Martz helped me rethink some of my arguments and gave me incredible ideas to incorporate into the paper. Dr. Mackenzie also provided me with materials to support my analysis, something I dearly appreciate. I must also thank the Corette library staff, especially Kathy Martin, who ensured that every book I requested got to me on time, even if it was coming from the Netherlands. I thank Kathy for the time she spent in searching and finding all the articles and books I requested, you were amazing and may God bless you.
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<tr>
<td>CSRP</td>
<td>Civil Service Reform Program</td>
</tr>
<tr>
<td>CSPIP</td>
<td>Civil Service Performance Improvement Program</td>
</tr>
<tr>
<td>ERP</td>
<td>Economic Recovery Program</td>
</tr>
<tr>
<td>E&amp;P</td>
<td>Exploration and Production</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GNPC</td>
<td>Ghana National Petroleum Corporation</td>
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<tr>
<td>IIAG</td>
<td>Ibrahim Index of African Governance</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IOC’s</td>
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<td>JV’s</td>
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<td>MPA</td>
<td>Model Petroleum Agreement</td>
</tr>
<tr>
<td>NDC</td>
<td>National Democratic Congress</td>
</tr>
<tr>
<td>NPP</td>
<td>New Patriotic Party</td>
</tr>
<tr>
<td>PNDC</td>
<td>Provisional National Defence Council</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization of Economic Co-operation and Development</td>
</tr>
<tr>
<td>OEL</td>
<td>Oil Exploration License</td>
</tr>
<tr>
<td>OML</td>
<td>Oil-Mining License</td>
</tr>
<tr>
<td>PSC</td>
<td>Production-Sharing Contract</td>
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<tr>
<td>OPL</td>
<td>Oil-Prospecting License</td>
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<tr>
<td>SAP</td>
<td>Structural Adjustment Program</td>
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<tr>
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CHAPTER 1

Introduction

In 2007, the Republic of Ghana successfully discovered oil in large commercial quantity along its coast on the West Cape Three Point after decades of oil exploration.\(^1\) By early 2011, the country officially entered into the oil market as a producer, with the Ghana National Petroleum Corporation (GNPC) lifting its first crude oil (995,259 barrels) in March, while a reported 3.9 billion barrels of oil were lifted from the offshore jubilee field by other oil companies.\(^2\) Ghana’s entry into the oil market has raised various legitimate concerns about the country’s future, with reactions to the new natural resource described to be full of elation and also worry.\(^3\) Ex-President John A. Kufuor was reported to have said that “oil will transform Ghana’s economy into an African tiger.”\(^4\) Others however expressed concern about the possibility of the country becoming like other African nations, where the small cliques of elites have consequently channeled proceeds into their personal bank accounts.\(^5\) These concerns are not unique to Ghana, in fact scholars like Richard M. Auty have argued that developing nations endowed with natural resources tend not to benefit from the resource as compared to nations that are usually not

\(^3\) Van Gyampo, \textit{Saving Ghana}, 49
\(^5\) Ghana aims to avoid the ‘oil curse.’ \textit{Christian Science Monitor}
endowed with natural resources; he termed this the “Resource Curse thesis.” Countries like Nigeria, Venezuela and Mexico, have all been known to be victims to this paradox. For Ghana, it might be too early to tell, yet as a developing nation still young in its democracy as well as the second largest producer of gold and cocoa in Africa, the stakes could not be much higher.

**Thesis Formulation**

In this paper, I claim that institutional quality (curse resistant or curse receptive) is a key determinant in the occurrence or non-occurrence of the resource curse. I use Nigeria as a case study, considering it is a regularly mentioned country in the Resource Curse debate. Nigeria is also said to have experienced “poverty, underdevelopment and conflicts” since it joined the ranks of oil producing nations in 1960. Even more dramatic, is the fact that the country is said to be among one of the poorest nations in the world. This institutional analysis within Nigeria [1960-2000] will help provide some understanding to the occurrence of the resource curse while also informing Ghana’s possibility of either escaping or embracing the resource curse.

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8 Ghana national petroleum lifts first crude from jubilee oil field, *Bloomberg*
11 Pleog, *Natural Resources*, 2.
Research Design

Using a comparative case study analysis, this paper begins with a brief introduction on Ghana’s oil discovery, presenting the key question that drives this study and how it will be examined. Following will be a literature review, providing an overview of some of the theoretical debate that exists around the resource curse thesis. Succinct discussions will center on factors such as the “Dutch disease”, “market volatility” and the “rentier state theory”, before delving into a deeper examination of the role of institutions in relation to the resource curse. A framework is then developed, consisting of contextual analysis adapted from the work of Annegret Mähler and indicators also modified from the World Governance Indicators, World Justice Project and the Ibrahim Index of African Governance.

Subsequently, I present a case study on Nigeria, offering a historical background and then dissecting its institutional development (rule of law, effective governance and openness and accountability) from 1960 to 2000. In essence, I examine how Nigeria’s institutions over time performed in relation to the abundance of its natural resource. The importance of this time frame reflects Nigeria as a newly independent nation, its entrance as an oil producing powerhouse and some of the major political, governance and economic challenges it faced. In the case study on Ghana, I provide a brief historical

background to the country and also look at its institutional development (rule of law, effective governance and openness and accountability) between 1972 and 2012. The choice of time frame allows for a similar time measure to that of the Nigerian case study and also reflects a series of political and economic challenges post-independence (1956). It also reveals Ghana’s transition to democracy in 1993 and oil discovery in 2007.

Finally, utilizing the matrix of contextual factors developed through the literature review, I explore Ghana’s chances at avoiding the resource curse. I analyze how the three indicators; rule of law, effective governance, openness and accountability help to determine curse resistant and curse receptive institutions in both Ghana and Nigeria.
Jeffrey Sachs and Andrew Warner claim the paradoxical relationship between resource abundance and poor economic progression has been occurring historically. They indicate that from the 17th century to the past few decades, resource-poor nations like Korea, Taiwan, Hong Kong and Singapore have economically surpassed resource-rich nations like Nigeria, Mexico and Venezuela. Although there have been exceptions to this paradox, like Indonesia, there still exist varying concerns about the consistent occurrence of the resource curse in most developing nations. These concerns range from economic to political.

An economic factor includes what is called the “Dutch disease.” This is an experience of high revenue from a resource boom that can result in an overvalued exchange rate, leading to the agricultural and manufacturing sectors inability to compete with other imports. Auty claims that, “the net effect is an expansion of subsidies and spiraling of non-mining wage increases that are unrelated to productivity.” Sachs and Warner also determine that the presence of the Dutch disease can be characterized by less allocation of capital and labor to the manufacturing sector, thereby shrinking it. However, they generally argue that, the extent of decline in the manufacturing sector is

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14 Sachs and Warner, *Natural Resource*, 2
15 Ibid., 2.
17 Ibid., 17.
not harmful so long as there are neoclassical, competitive conditions within the economy.\textsuperscript{19}

Another facet of economic causality explores the volatility of the commodity market. Authors Graham A. Davis and John E. Tilton share the opinion that the demand fluctuations of these commodity goods tend to affect prices, thereby impacting other areas of a developing nation’s economy.\textsuperscript{20} They claim it is not uncommon to have such price variations of up to 30\% or more within a year, which can affect a developing nation’s reliance on revenues for economic related development.\textsuperscript{21} Auty however points out the lack of better internal policies to accommodate these external price shocks as part of the problem, claiming that where there is something like a mineral stabilization fund, it does help “assume [sic] a taxation regime which effectively cream off windfall revenues without deterring long term investment in the mining sector.”\textsuperscript{22} Therefore he believes an absence of such a policy, can likely lead to a developing nation’s vulnerability to price variations.

Annegret Mähler in her work also explores the nature of the “Rentier state theory”. She cites that a rentier state is “a state in which at least 40 percent of the total government revenue consists of economic rents”, and these “rents can be defined as ‘the excess over the return to capital, land, and labor when these factors of production are put

\textsuperscript{19} Ibid., 6.
\textsuperscript{21} Davis and Tilton, \textit{The Resource Curse}, 236.
\textsuperscript{22} Auty, \textit{Sustainable Development}, 26.
to their next best use.” Mähler claims this has both political and economic effects. An example of the political effect is what she describes in the two causal mechanisms to why a rentier state has a stabilizing effect on authoritarian rule:

Firstly, it is presumed that oil rents foster the formation of stabilizing patronage networks, widespread clientelism, and assistentialistic distribution policies, all of which lessen the pressure from the population to democratize and may additionally result in the depoliticization of the society. Secondly, the abundance of revenues generated by the oil sector means that national rulers do not need to tax the population. This again may disburden the political elite of demands from the population for political participation and accountability on the part of the elites.

Andrew Rosser also determined that, such dominant states tend to generally develop their distributive capacity for social welfare programs, (in this case supporting Mähler claim of doing so to suppress the population from any uprising and shutting any call for accountability) and as such do not take responsibility for the regulations and administrative functions over the economy and the necessary tax policy.

The rentier state theory does cast light on another important factor, “Institutions”, which represents the central focus to this paper. Bokyeong Park and Kang-kook Lee write that the importance of institutions in determining economic growth has drawn the attention of many economists, and empirical investigation has also deemed institutions a

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23 Mähler, Nigeria, 7
24 Ibid., 7
relevant factor in determining the differences in economic growth. Dani Rodrik also claims institutional quality is a major crux of patterns of prosperity around the world, citing that investors are attracted to nations where they feel not only secure about their property rights but also where the rule of law is established and “private incentives are aligned with social objectives, monetary and fiscal policies are grounded in solid macroeconomic institutions, idiosyncratic risks are appropriately mediated through social insurance, and citizens have recourse to civil liberties and political representation.”

However, he argues that, measuring the quality of institutions by investors’ perceptions of these indices does not necessarily reflect the formal aspects of institutional setting, which he believes can lead to such perceptions not being shaped by the actual institutional or economic environment and also not shining light on what exact rules, legislation or institutional design are responsible for the outcome being measured.

Jeffery Sachs cautions on the overemphasis placed on the role of institutions in economic growth. He does not doubt that institutions matter; nonetheless he worries about the minimal regard given to other factors such as geography and diseases like malaria and how they can essentially disrupt the economic growth of a developing nation. He argues the three categories of states that define the markedly divergent

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economic growth in the developing world over the past 20 years of globalization: first, those with favorable institutions, policies and geography, such as the coastal areas of East Asia; second, regions with fairly endowed geography and have also poor governance and institutions, including states in central Europe; and finally, those regions that are impoverished and have an unfavorable geography, such as Sub-Saharan Africa. In his conclusion, he argues that a better approach would be to look at each nation and identify in detail the various obstacles (whether geography or institutions) to economic growth, than just simplifying them.

On the other hand, Daron Acemoglu and James Robinson in Why Nations Fail, argue geography and other factors do not play an important role in determining the lack of economic growth among developing nations. Acemoglu and Robinson support such claim by citing instances of the differences between the north and south Nogales as well as the Koreans. They claim history has shown no correlation between climate or geography and economic success. Most importantly, Acemoglu and Robinson claim that “to understand the world of inequality we have to understand why some societies are organized in very inefficient and socially undesirable ways.” They do this through what they term “extractive and inclusive economic institutions” and “extractive and inclusive political institutions”. They argue that nations, such as the United States and South

30 Sachs, Institutions Matter, 39-41
31 Sachs, Institutions Matter, 41
33 Acemoglu and Robinson, Why Nations Fail, 68
34 Inclusive encourages participation by the great mass of people in economic activities that makes best use of their talents and skills and that enable individuals to make the
Korea, with inclusive institutions tend to create inclusive markets and also allows for their people to freely pursue dreams by essentially creating an equal playing field to do so.\textsuperscript{35} Institutions like this, in their view are what paved the way for two key engines of prosperity; technology and education.\textsuperscript{36} They further argue that inclusive economic institutions have characteristics of secure property rights, public services, and the freedom to contract as well as enforce such contracts.\textsuperscript{37}

Dani Rodrik, Arvind Subramanian and Francesco Trebbi also discuss why institutions matter. They claim that, from their econometric analysis and approaches used by others in the field, the determinants of geography, institutions and integration among sampled countries, resulted in the following:

Quality of institutions trumps everything else. Once institutions are controlled for, integration has no direct effect on incomes, while geography has at best weak direct effects. Trade often enters the income regression with the “wrong” (i.e., negative) sign, as do many of the geographical indicators. By contrast, our measure of property rights and the rule of law always enter with the correct sign, and are statistically significant, often with t-statistics that are very large.\textsuperscript{38}

Rodrik et al., argue these determinants when put together with other linkages answer the question, “what is the independent contribution of these three sets of deep

\textit{choices they wish. The opposite is true for extractive. Inclusive refers to political institutions that are sufficiently centralized and pluralistic. The opposite is true for extractive. Ibid., 73-75; 81-82}

\textsuperscript{35} Acemoglu and Robinson, \textit{Why Nations Fail},

\textsuperscript{36} Ibid., 77

\textsuperscript{37} Ibid., 75-76

determinants to the cross-national variation in income levels?” Their work also partly concludes that having superior institutions does not imply effective policy, citing reforms undertaken in Japan, South Korea and China during the Meiji restoration, the 1960’s and 1970’s respectively. They described this as “policy innovations that eventually resulted in a fundamental change in the institutional underpinning of their economies.” Rodrik et al., also conclude that their institutional quality analysis is based on perceptions of investors and observers’ ratings.

The nature and importance of institutions is also presented by Halvor Melhum, Karl Moene and Ragnar Torvik in their article, “Institutions and the resource curse,” in which they identify two categories of resource rich nations, those that are growth winners, such as Botswana, Canada, Australia and Norway, and those that are growth losers, which include Nigeria, Zambia, Sierra Leone, Angola and Venezuela. They determine through empirical evidence from 1965-1990, using 42 countries in their sampling set, that institutions that were inferior in certain nations tend to indicate the presence of the resource curse while the opposite was so for nations with better institutions. Melhum et al., argues that “natural resources put the institutional arrangements to a test, so that the resource curse only appears in countries with inferior institutions,” claiming that the distribution of resource rents is dependent on institutions,

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39 Rodrik, Subramanian and Trebbi, Institutions Rule, 4.
40 Ibid., 20.
41 Ibid., 21.
43 Mehlum, Moene and Torvik, Institutions, 1-2.
classifying them as either “producer friendly” or “grabber friendly.”\textsuperscript{44} They distinguish that, the latter represents the allocation of entrepreneurs between productive and unproductive rent extraction which impedes economic growth (resource curse); the opposite however is true for the former, which they deem to be right for economic growth.\textsuperscript{45}

Another feature of institutions is discussed by James A. Robinson, Ragnar Torvik and Thierry Verdier. In their argument, they emphasize the concept of patronage, where incumbent politicians may either consume the rents they receive from resources or essentially distribute it to the populace for the benefit of influencing the outcome of an election, and this comes in the form of favors and jobs granted by politicians.\textsuperscript{46} This, they claim, produces four main results: first, over-extraction of natural resources usually occurs in an anticipation of a politician staying in power for some time; secondly, this allows for more extraction in the case of a permanent resource boom to cement their positions (by allocating more resources to that effect); thirdly, it leads to an increase in the misallocation of resources in the rest of the economy; and finally, that institutions matter in determining the impact of the resource boom in an economy.\textsuperscript{47} Robinson \textit{et al.}, argue that such institutions are political, and must be accountable to the people to help

\begin{itemize}
\item \textsuperscript{44} Ibid., 1-3
\item \textsuperscript{45} Ibid., 4
\item \textsuperscript{47} Robinson, Torvik and Verdier, \textit{Political Foundations}, 5.
\end{itemize}
avoid a patronage system.\textsuperscript{48} These results were developed from a model of “two-period probabilistic voting model and a society with two parties or politicians.”\textsuperscript{49}

As a final point, the work of Ivar Kolstad provides a critical analysis of the arguments on institutions done by the last two above mentioned authors. He argues that both Mehlum \textit{et al.} and Robinson \textit{et al.} present two unique perspectives on the nature of institutions and how they peg against each other in terms relevance.\textsuperscript{50} Kolstad writes that the work of Mehlum \textit{et al.}, is dedicated to private sector institutions (dependent on factors such as the rule of law and efficient bureaucracy in attracting entrepreneurs), while that of Robinson \textit{et al.}, is oriented towards the public sector (mostly patronage but can be undone with openness and accountability).\textsuperscript{51} In each case, he determines through an econometric analyses how over a period of time (using other studies) certain variables such as openness and the rule of law interacts with the prevalence of natural resources and the impact it has on the economy.\textsuperscript{52} His final results, he claims are conclusive (empirically), that the role of the private sector institutions is very important in avoiding the resource curse; although public sector institutions did fare well with individual variables in his econometric analyses.\textsuperscript{53}

Drawing from this, three important findings are made: first, private sector institutions matter most; secondly, public sector institutions are also indispensable; and finally, institutions do matter overall. In this paper, I do not differentiate between private

\textsuperscript{48} Ibid., 6.
\textsuperscript{49} Ibid., 8.
\textsuperscript{51} Kolstad, \textit{Resource Curse}, 439.
\textsuperscript{52} Ibid., 440.
\textsuperscript{53} Ibid., 440-441.
and public sector institutions as Kolstad, and do not provide my own econometric analysis of data. Rather, I engage in a contextual discussion of three indicators; Rule of law, Effective governance and Openness and Accountability to institutional quality and the relationship to the resource curse. These reflect the studies done by Mehlum et al., Robinson et al., Rodrik et al., Acemoglu and Robinson, and Rodrik, which includes what investors and observers depend on, identifies what trims or encourages patronage, and captures fundamental rights or the lack thereof. This framework of analysis is thus adapted from the World Governance Indicators (WGI), World Justice Project (WJP) and Ibrahim Index of African Governance (IIAG).  

However, I do not necessarily use the scores to these indicators, but the interpretation provided and how that fits into the context of each case study within this paper. These indicators will reflect two kinds of institutions, Curse Resistant or Curse Receptive, (See Table 1) accepting that “natural resources put the institutional arrangements to a test, so that the resource curse only appears in countries with inferior institutions.”

In this paper, I follow a similar matrix as introduced in the work of Mähler, in which she determines the relationship between resources and violence. I will also use her inductive-explorative approach and comparative historical analysis in both my case studies, in this instance, Nigeria [1960-2000] and Ghana [from 1972-2012]. Although this paper looks specifically to institutions, I do not rule out other factors, such as geography or climate as claimed by Sachs. However, due to the scope and focus of my

54 These organizations use specific indices to judge nations on governance, rule of law, transparency, corruption etc. They put together scores derived from other sub factors.
55 Mehlum, Moene and Torvik, Institutions, 1-2
56 Mähler, Nigeria, 9
57 Ibid., 11.
In my study, I will only be examining institutions, which will still not cover every existing factor put out by other works (See Appendix I for an elaborate description of the framework).

Table 1: Matrix of Curse Resistant or Curse Receptive Contextual Indicators

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<tr>
<th>Indicators</th>
<th>Curse Resistant</th>
<th>Curse Receptive</th>
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<tr>
<td><strong>Rule of Law</strong></td>
<td>• Strong contracts and enforcement</td>
<td>• Weak contracts and enforcement</td>
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<td>• High confidence in courts/police</td>
<td>• Low confidence in courts/police</td>
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<td>• Strong Property and fundamental rights</td>
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<td><strong>Effective Governance</strong></td>
<td>• Strong public/civil service</td>
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Source: compilation based on indicators and sub factors presented in WGI, WJP and IIAG reports.
Background

In Cyril I. Obi’s article, *The petroleum industry: A paradox or (sp)oiler of development?* He describes Nigeria as having “some of the world’s worst human development indicators,” even though it had the benefit of earning hundreds of billions of
dollars in more than five decades from oil production and export.\textsuperscript{58} Michael L. Ross also asserts that although the nation saw high revenues coming from the oil sector in the 1970’s, there was little indication of any improvement in the standard of living of its people.\textsuperscript{59} Ross penned this as striking, considering “the size of Nigeria’s oil windfall.”\textsuperscript{60} However, the story was quiet different in the 1950’s through the 1970’s, to which Ann Genova and Toyin Falola describe:

\begin{center}
For almost three decades, writing about Nigeria's oil reflected optimism, in the context of development and modernization theories. The early writings focused on the future of the oil industry and the presence of foreign oil companies, mainly in glowing terms.\textsuperscript{61}
\end{center}

An example of such optimism is cited in Olu Omopariola’s article \textquote{\textit{Nigeria’s financial management nightmare}}, in which a report published in 1979 by the Organization for Economic Co-operation and Development (OECD), indicated that Nigeria was expected to have industrialized by the year 2000.\textsuperscript{62}

\begin{flushright}
\textsuperscript{60} Ross, \textit{Nigeria}, 2.
\end{flushright}
Prior to independence, Nigeria, like many other African countries, had been ruled by the British since 1879.63 The power they had over the country was cemented by their ability to leverage local chieftains in the Niger Delta, using them to secure treaties for trade in palm oil.64 As Nigeria was never a homogenous state, the British capitalized on the existing division to their benefit, which ended up affecting the country’s post-independence political development.65 Moreover, the system of British colonial rule back then was based on exploitation, essentially structured to benefit the ruling class.66 By 1904, the quest of the colonial masters for more mineral resources, led to the formation of the Mineral Survey of the Northern Protectorates and the Mineral Survey of the Southern Protectorates, which helped in the discovery of mineral resources like bitumen, coal, gold, columbite, lignite, coke, tin, iron and many others.67 Within a decade, the British had merged the northern and southern protectorates together to form one country (Nigeria), and years of exploration paid off, when oil was discovered in commercial quantity and quality by Shell/D’Arcy (Shell-BP) in 1956.68 As Ikeanyibe Marcellus describes, the emergence of oil relegated the importance of the other minerals in the Nigerian economy, that by 1988, these other minerals accounted not more than 0.3% of

65 Ibid., 210.
67 Marcellus, The imperative, 58.
GDP, while oil contributed more than 80% to the national wealth.\textsuperscript{69} Nigeria became an oil exporting nation when its first shipment of oil arrived at Rotterdam in 1958, two years before it gained independence from British colonial rule.\textsuperscript{70} The new oil find was received with the hope that the country will somehow achieve unprecedented growth and industrialization in the decades ahead.\textsuperscript{71}

In 1966, Nigeria experienced its first coup d’État, which lead to the demise of the parliamentary government.\textsuperscript{72} The coup leaders alleged they were purging the country of the corruption and the dominance of the northern political elites.\textsuperscript{73} Such political instability continued through the 1970’s to the 1990’s, until the sudden death of General Sani Abacha in 1998, which paved the way for a civilian government led by Olusegun Obasanjo in 1999 (see Appendix III, figure 4).\textsuperscript{74} The country was also caught in a civil war between 1967 and 1970, an event claimed to be “rooted in ethnic tensions and Nigeria’s colonial past; but also [sic] encouraged by the presence of oil….”\textsuperscript{75} Such civil conflicts, as Bolanle Awe states, can either be a “factor for creative progress or a cause of

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\textsuperscript{69} Marcellus, \textit{The imperative}, 59.
\textsuperscript{71} Genova and Falola, \textit{Oil in Nigeria}, 134.
\textsuperscript{73} Guseh and Oritsejafor, \textit{Government Size}, 141
\textsuperscript{74} Guseh and Oritsejafor, \textit{Government Size}, 145; Ross, \textit{Nigeria}, 3.
\textsuperscript{75} Ross, \textit{Nigeria}, 3.
disruption.” In the case of Nigeria, it became a cause of disruption, which I argue is one of the factors that affected the country’s ability to progress economically and to build effective institutions (Institutions that could have managed and withstood the boom and bust of oil production). In the next section, I will examine in historical context the country’s institutional characteristics, using the nature of rule of law, governance and level of openness and accountability, and how that, like many other factors, explains Nigeria’s inability to have benefited from its oil abundance.

**Rule of Law**

Guillermo O’Donnell writes;

> The rule of law is among the essential pillars upon which any high quality democracy rests. But this kind of democracy requires not simply a rule of law in the minimal….What is needed, rather, is a truly democratic rule of law that ensures political rights, civil liberties, and mechanisms of accountability which in turn affirm the political equality of all citizens and constrain potential abuses of state power.

In the following analysis, I explore Nigeria’s rule of law through the ensuing lens: nature of contracts and enforcement, level of confidence in courts and police, and finally the recognition of property and fundamental rights.

Contracts and enforcement

Before independence in 1960, the monopoly to which Shell-BP held over exploration rights, was gradually broken as a result of the repeal of section 6(1) (a) of the Mineral Oils Ordinance of 1914. This led to the arrival of more International Oil Companies (IOC’s), which was in line with what the government had sought to achieve; that is, the need to speed up exploration. As cited in Lawrence Atsegbeua’s article, the Mineral Oils Ordinance of 1914 stated that:

It shall not be lawful for any person to search or drill for or work mineral oils within or under any lands in Nigeria, except under a license or lease granted by the Minister under this Ordinance. Provided that nothing in this Ordinance contained shall affect any license or lease granted under any Ordinance repealed by this Ordinance, which license of lease shall for all purposes have effect as if this Ordinance had not been made.

Atsegbeua further describes that IOC’s that wanted to develop or explore in Nigeria had to seek the authorization of the government, which prior to 1959 was negotiated on behalf of the government by the Federal Minister of Mines and Power. The political elites, as described by Peter M. Lewis, “were not ideologically hostile to foreign investment, external trade or private enterprise, though they favored a substantial role for government as a vehicle of development.”

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79 Atsegbeua, The development, 58.
80 Atsegbeua, The development, 59.
81 Ibid., 59.
82 Peter M. Lewis, Growing Apart: Oil, politics, and economic change in Indonesia and Nigeria (Ann Arbor: The University of Michigan press, 2007); 129
Atsegbua asserts that, Post-1959, a government notice began to standardized the process and distinguish between different types of activities according to the state of development in the concession areas.83 One of the main provisions of the notice was the Oil Exploration License (OEL), which he indicates gave oil companies rights to move forward with explorations on lands and territorial waters of Nigeria, although it exempted those that have already being granted to other operators.84 Another provision to this notice was the Oil-prospecting license (OPL), which was for the mainland areas, usually valid for three years and subject to extension.85 This license, Atsegbua claims, provided oil companies the exclusive right to carry out exploration activities, drill, and export and refine petroleum in Nigeria, which also meant several obligations imposed on companies that held this license.86 IOC’s holding these licenses were expected to train Nigerians on the art of drilling and production of petroleum, and financial obligations were also imposed on them, including royalties on all crude oil and natural gas.87 Finally, there was the Oil-mining lease (OML), which was for a term of 30 years, with possible renewals on both lands and the continental shelf.88 The licensee “had the exclusive right to take every measure necessary to exploit and to develop a petroleum industry in the concession areas” with obligation to train Nigerians as in the case of the OPL.89

83 Atsegbua, The development, 59
84 Ibid., 59
85 Ibid., 60
86 Ibid., 60
87 Ibid., 60
88 Ibid., 61
89 Ibid., 61
The nature of these oil contracts, Atsegbeua declares attracted many foreign oil companies, because it was deemed favorable to them.\textsuperscript{90} Between 1960 and 1970, the dominance and power of these foreign oil companies in Nigeria became a concern, as attempts to amend legislations to favor the producing nation were met with tough negotiation.\textsuperscript{91} As Ugo Nwokeji describes:

Through the whole of the 1960’s, the industry remained entirely in the hands of IOC’s, with state involvement restricted…to collection of fees from explorations licenses and production leases, as well as taxes and royalties on crude.\textsuperscript{92}

As negotiations to seek more stakes in the oil industry became contentious, Nigeria sought to ease the tension with financial arrangements with the IOC’s.\textsuperscript{93} These arrangements as described by Atsegbeua, “were contained in the covenants that each company had signed with the government” and were in separate documents, usually termed as the “most-favored-nation clause.”\textsuperscript{94} It essentially said that “oil companies operating in Nigeria promised that they would negotiate with and, by implication, give terms to the Nigerian government equal to the most favorable terms accorded to any government on the continent of Africa or in the Middle East.”\textsuperscript{95}

\textsuperscript{90} Ibid., 61
\textsuperscript{91} Ibid., 62
\textsuperscript{93} Atsegbeua, The development, 62.
\textsuperscript{94} Ibid., 62
\textsuperscript{95} Ibid., 62
The Petroleum Act of 1969 was also used to issue “licenses for the exploration and prospecting for petroleum, as well as the issuing of leases for the mining of petroleum.”

This Act granted the Minister of Petroleum Resources the responsibility to oversee such process. Some critics labeled this Act as being hollow, “in that, apart from the reduction in the primary term of an oil mining lease to 20 years for grants, as compared to earlier grants for 30 years and 40 years, no worthwhile changes in the rights of the transnational concessionaries had taken place in Nigeria’s favor.”

In fact, Atsegbua claims that under military dispensations, proposed statutes were not subject to a better informed public debate. Rather, only a few military officers and ruling class members, usually having little to no knowledge of the law reviewed a hastily put together document. By 1973, a new contract law had emerged, the production-sharing contract (PSC). The PSC began in Indonesia in 1967, defining the relationship between the host country and the foreign oil company. The law over time took into consideration “particular circumstances of the venture concerned and to keep pace with development.” It was deemed attractive to oil companies as it allowed them to obtain quick pay-out of 40% “of the oil towards the reimbursement of the exploration, development and other operating costs they have incurred.” By 1993 PSC’s were signed with eight oil companies (considered confidential and not released to the public).

\[96\] Ibid., 64
\[97\] Ibid., 64
\[98\] Ibid., 66
\[100\] Atsegbua, The development, 68
\[101\] Ibid., 68
\[102\] Ibid., 69
compared to just one in 1973.\textsuperscript{103} Through the PSC, the country was said to have attracted over $3.1 billion in foreign investment.\textsuperscript{104} Nigeria also used what was called the Service Contract (SC), which essentially contracted oil companies, who were deemed by the law as not a concession holder or partner but a hired agent.\textsuperscript{105} Although the SC has ended, it had 11 oil companies as signatories and shared similar characteristics to that of the PSC, except “the main differences between them lie in the mode for the recovery of costs and the remuneration of the IOC. The distinctive feature of the SC is that an IOC is remunerated in cash and not in crude oil.”\textsuperscript{106}

There were various enforcement problems to these legal arrangements, particularly on the protection of local communities from the negative effects of oil exploration and production. Aderoju Oyefusi asserts that the responsibility to ensure that communities were protected based on oil-related legal arrangements fell on the Federal [and States] Environmental Protection Agencies, however, he cites they had “limited control over the oil industry” and were also “made ineffective by corruption, limited funding, weak monitoring and enforcement capacity, and limited qualified staff.”\textsuperscript{107} He further cites that:

According to the World Bank (1995), the three major constraints to the regulation of the energy and mineral sector in Nigeria were \textit{sic} the absence of requirement for community participation in the planning and development of oil activities, corruption and inadequate compensation for

\textsuperscript{103} Ibid., 69  
\textsuperscript{104} Ibid., 69  
\textsuperscript{105} Ibid., 70  
\textsuperscript{106} Ibid., 70  
damage to property, and the lack of enforcement of environmental regulations. In addition, unlike other oil-producing countries, Nigeria lacks a separate statute for the conservation of oil.\textsuperscript{108}

*Confidence in Courts and Police*

Otwin Marenin writes that:

The power of policing has many faces. The police may deliver services people need in times of duress or emergency and provide the sense of security and predictability necessary for them to engage in routine behavior. Yet the police may also be the repressive organ of state rule, the means by which the lives and safety of citizens are placed at the mercy of anonymous, bureaucratic, and personalistic discretion.\textsuperscript{109}

The Nigerian police force was formed in 1930 and had national jurisdiction, but also coexisted with local administration police forces of the western and northern regions.\textsuperscript{110} Between 1930 and 1966, the local forces were disbanded due to widespread corruption, poor training and their use by traditional rulers and politicians as partisan instrument to brutalize opponents.\textsuperscript{111} As one of the earliest victims of the 1966 coup, the nature of Nigerian policing moved from such coexistence with local forces to that of a unified national force.\textsuperscript{112} This unified national force was backed by the 1979 and 1999

\textsuperscript{108} Oyefusi, *Oil-dependence*, 4-5
\textsuperscript{111} Analysis of Police and Policing in Nigeria, *Cleen Foundation*, 9
\textsuperscript{112} Ibid., 10
constitutions, allowing for only one Nigeria police force.\textsuperscript{113} The function of this force was to investigate crime and ensure that offenders of the law were interrogated and prosecuted as well as serve summons, regulate or disperse processions and assemblies, etc.\textsuperscript{114} However, the force became rather known for its submissiveness to the rich and powerful.\textsuperscript{115} As cited in the Cleen Foundation study, post-1966:

The police in their routine work tend to protect the powerful. Police are visible enmasse during ceremonial occasions when they cordon off VIPs from the common folk; they are assigned to guard the homes of the powerful, government buildings, and act as body guards for important officials. One rarely sees a high ranking officer without a police officer. Police are concentrated in urban areas, and within urban areas, concentrate on patrolling Government Residential Areas (GRAs) – the home of indigenous and expatriate elites.\textsuperscript{116}

Police brutality became very rampant under successive military regimes after 1966, especially when it came to political opponents of the government and military administration.\textsuperscript{117} In 1997, the Human Rights Watch visited the Niger Delta to investigate violations in relation to suppression at oil company activities. The report of the visit revealed instances of police brutality, in which people were beaten, jailed and threatened.\textsuperscript{118} Other excesses include abductions, unwarranted searches, intimidations

\begin{footnotesize}
\begin{enumerate}
\item Ibid., 11 \\textsuperscript{113}
\item Ibid., 13 \\textsuperscript{114}
\item Ibid., 13 \\textsuperscript{115}
\item Ibid., 13 \\textsuperscript{116}
\item Ibid., 14 \\textsuperscript{117}
\end{enumerate}
\end{footnotesize}
and extra-judicial killings. Police corruption was also evident, as bribery and extortion became a prime practice of the national police force. The Cleen Foundation paper however indicates there were issues affecting the effectiveness of the police force. These included poor remuneration, condition of service, crime and operational information, inadequate training and many others. In fact as the paper concludes, the police force still faces failures in areas such as prevention and control of crime, scrupulous observance of the rule of law, and recognition and protection of the dignity and rights of citizens.

Nigeria’s justice system, including its courts has been known for its corruption.

As Hakeem O. Yusuf writes:

There is consensus within and outside legal circles in Nigeria that the judiciary has been palpably corrupt. It had become a notorious fact that in the period of authoritarian military rule in the country, justice was available for sale to the highest bidder. The situation in the courts had become so bad that trials had turned into “charades” manipulated by well-heeled litigants.

David U. Enweremadu also determines that in the periods that Nigeria sought to democratize (1960-1966 and 1979-1983), reliance on the rule of law was pushed aside by

BAHZo3a9AW34mYQ#v=onepage&q=human%20rights%20issues%20in%20nigeria%20since%201960&f=false (accessed October 27, 2012)
Analysis of Police and Policing in Nigeria, Cleen Foundation 14
Ibid., 15
Ibid., 15
Ibid., 16-17
Yusuf, Calling the Judiciary, 218
political opponents, who rather depended on the military to seize power because “resorting to the law courts for resolution of electoral disputes was thought to be a fruitless venture.”\textsuperscript{125} When it came to foreign companies and their operations in Nigeria, Olufemi O. Amao asserts there that “the question of the extent of the violation of human rights by MNCs (Multinational Corporations) in Nigeria has been the subject of considerable debate”, and argues that there is “a general consensus among writers on the subject that there are important issues implicating human rights violations emanating from the operations of MNCs in Nigeria.”\textsuperscript{126} In this case, the courts and police as evident became protectors of the companies leaving Nigerian citizens vulnerable to various forms of abuses.

\emph{Property and fundamental rights}

As revealed above, Nigeria’s police force is particularly known for its abuse of citizens, whereas the courts that were supposed to provide the avenue for redress tend to be corrupt. These institutions were deemed protective of the rich and powerful in society, meaning they existed to serve the needs of the few. On the global scene, Nigeria was “under international censure for her appalling human rights record.”\textsuperscript{127} Nigeria’s 1979 and 1999 Constitutions do guarantee fundamental rights, ranging from the right to life, human dignity (freedom from inhuman and degrading treatment, torture), personal

\begin{flushleft}
\textsuperscript{127} Yusuf, \emph{Calling the Judiciary}, 209
\end{flushleft}
liberty, privacy, right to fair, open and impartial judicial process, right against retroactive laws, right to speedy trial, and many others. These rights are reported to be breached at all levels of the criminal justice system in Nigeria, attributing to it factors such as colonial legacy arbitrariness, political manipulations of the police and judiciary and persistent corruption in the police force. As indicated by Etannibi E.O. Alemika and Innocent C. Chukwuma, “the most important source of the infringement of these rights was [sic] protracted military rule. …the subsisting Constitutions were suspended, retroactive legislation and ouster clauses were introduced. …this resulted in an atmosphere of persecution and repression.” They also indicate how police violence, brutality and corruption were common under these military regimes.

When it comes to property rights, one telling impact was the passage of its Land Use Act of 1978. This law was promulgated as a decree, and then annexed to the 1979 Constitution during the transition to democracy. The aim was to “nationalize all lands in the country, purportedly due to the increasing difficulty experienced by private and government institutions in acquiring land for development.” However the effects on customary land-holding as cited in Rhuks T. Ako’s study was the:

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129 Alemika and Chukwuma, Police-community violence, 16
130 Ibid., 16
131 Ibid., 16
133 Ako, Nigeria’s Land, 295
(1) Removal of the radical title in land from individual Nigerians, families, and communities and vesting the same in the governor of each state of the federation in trust for the use and benefit of all Nigerians (leaving individuals, etc., with ‘rights of occupancy’); and

(2) Removal of the control and management of lands from family and community head, chiefs and vesting the same in the governors of each state of the federation (in the case of urban lands) and in the appropriate local government (in the case of rural lands).\textsuperscript{134}

Ako also determines the Act was “the fundamental cause of the violence that has become characteristic of the Niger Delta region.”\textsuperscript{135} He also argues that, the Act meant people could be dispossessed of lands they owned whenever it was required for oil exploration, simply “making them tenants-at-will of the oil industry on land they had owned and inhabited for centuries.”\textsuperscript{136}

The overall assessment of rule of law in Nigeria in this context, demonstrates core ineffectual tendencies, designed around a system that only caters to the needs of the powerful or elitist in society (in this case the oil companies, politicians and the military leaders). Contracts, mostly done by people with little to no knowledge as claimed by Atsegbua (see page 24), were hastily put together and designed to favor oil companies, with less transparency and ineffective enforcement of bylaws stated therein. The rights of average citizens were abused and relegated. This as I argued earlier on, meant that Nigerian citizens were essentially left vulnerable, with no confidence in the laws of the land and those (courts and police) entrusted to protect them from any abuse or violations.

\textsuperscript{134} Ako, \textit{Nigeria’s Land}, 296
\textsuperscript{135} Ibid., 294
\textsuperscript{136} Ibid., 296
These weaknesses shows the absence of checks and balance that could hold leaders, institutions and companies accountable and allow for an independent judiciary to effectively punish and protect everyone equally before the law.

Effective Governance

According to Hal Rainey and Paula Steinbauer, effective government organizations exhibit certain traits, which include having a favorable public opinion and general public support, and possessing some level of autonomy (not highly extreme levels of autonomy) in its operation. In essence, an independent government organization, that commands greats respect and positive view from the public can be effective. The World Bank’s WGI also argues that an effective government is one with a better bureaucracy, because “the better the bureaucracy the quicker decisions are made and the more easily foreign investors can go about their business.” However, when policy direction is not consistent and “government economic policies do not adapt to changes in the economy”, that can lead to its ineffectiveness. In this Nigerian case, I will attempt to historically examine the effectiveness or not of the government through the lens of the following sub-factors; its public/civil service and nature of policy formulation and implementation.

139 World Governance Indicators, World Bank
Between the periods of 1950 to 1960, Nigeria’s Civil Service was regarded as one of the best in the commonwealth. However, beginning in 1963, the country embarked on a number of home-grown civil service reforms, immensely affecting the capability and effectiveness of the service. By 1985/86 further reforms had impacted the service again, this, R.N.I Oyelaran–Oyeyinka argues, was “at the request of international financial institutions, in particular the International Monetary Fund (IMF)…. and had a great impact on the structure and performance of the Nigerian Public Service.” As cited in the study by M. A. O. Aluko and A.A. Adesopo, in 1986, Nigeria’s bureaucracy included the following: civil services of all the thirty-one governments and the seven hundred seventy-six local governments that constitute the Federal Republic of Nigeria presently; parastatal and public enterprise bureaucracies; armed forces bureaucracy; internal security or policy bureaucracy; higher education bureaucracy; teaching service; public media; and judicial service. The federal system (prior to that was a parliamentary system) of having “more than one territorial level of authority to which the populaces have political obligations” is described by Oyelaran–Oyeyinka to be

141 Ibid., 15
143 Ibid., 17
comparatively weak, as “unpredictable forces of history and the built-in complexities of ethnicity and cultural diversity shaped Nigeria’s federalism.”

Some of the observed problems of Nigeria’s bureaucracy included corruption, inefficiency and being over-staffed. In fact, a report that was done in 1974 (Udoji Report of 1974) indicated that Nigeria’s bureaucracy was filled with nepotism, ethnic loyalties, corruption, elitism, and inability of superiors to delegate responsibilities. In the end the report concluded that “the entire Nigerian bureaucracy was not results-oriented.”

There were also issues related to how political interferences occurred at different levels of administration, resulting in the disruption of the whole bureaucratic apparatus. Compared to developed countries, such as the United States, where entering the civil service required various steps of testing and independent merit-based assessment, Nigeria, as Ogunrotifa Ayodeji Bayo indicates was highly politicized with a quota based system of recruitment and promotion and a “constant interference of the government in the day-to-day operation” of the service. Another observed trend was how the elite class interest had grown and overshadowed the internal bureaucracy, forming networks of influence and shared protectionism. They had evolved into

144 Ibid., 17
145 Aluko and Adesopo, An appraisal, 18
146 Ibid., 18
147 Ibid., 18
148 Ibid., 18
150 Ibid., 18
“cliques and informal groups in order to maximize their benefits, all at the expense of the attainment of institutional goals.”\textsuperscript{151}

From 1970-75, federal officials, state military government, and senior bureaucrats, controlling the revenues coming from the oil sector, “used their leverage over resources to bolster political control and address pressures from key constituencies while creating personal outlets of accumulation.”\textsuperscript{152} There was also the growing presence of local entrepreneurs using illicit means to benefit from the oil boom. As Lewis writes, they “relied on political machinations, illicit transactions, corruption, and a range of “directly unproductive, profit-seeking activities.”\textsuperscript{153} Politics also infiltrated the distributional aspects of the boom from oil, which was described as contentious.\textsuperscript{154} The strategies involved were seen through “statutory, discretionary, and informal dimensions,” and the methods to which distribution of revenue was done also changed repeatedly in the post-colonial era.\textsuperscript{155} For many years, the distribution of revenue was done on the principle of derivation, “under which regional or state governments retained a large proportion of the revenues raised from the local economic activity, including export commodities.”\textsuperscript{156} However, it was sidelined and then, as the Dina Commission (1970) revealed, “proceeds from the petroleum sector were appropriated by central authorities who then dispersed resources…” using a complex formula that considered weight, the population, relative need, equity, land area and derivation.\textsuperscript{157} The impact of

\textsuperscript{151} Ibid., 18
\textsuperscript{152} Ibid., 138
\textsuperscript{153} Lewis, Growing Apart, 137
\textsuperscript{154} Ibid., 138
\textsuperscript{155} Ibid., 140
\textsuperscript{156} Ibid., 141
\textsuperscript{157} Ibid., 141
the changes ended up fostering a number of practices, including fraud and mismanagement of windfalls, which resulted in less benefit to members of the Nigerian society (except the elite class who also controlled the bureaucratic networks through their cliques). As cited in the work Eyene Okpanach, between 1960 and 1999, “the country’s rulers stole an estimated $400 billion in oil revenues—equal to all the foreign aid to Africa during the same period.”

Policy formulation and Implementation

By the early 1970’s, the country had become highly dependent on oil, as “the share of oil in gross domestic product (GDP) and exports rose sharply after 1970-73.” Brian Pinto writes that, “faced with higher immediate and anticipated income after 1973, the Nigerian government had a range of choices: it could consume the increase currently, in the future, or spread the increased consumption over time.” Pinto describes the policy action that was taken during this period;

Public expenditure increased greatly, as did the country's access to international capital markets. Evidence of "Dutch disease" emerged during this period: agriculture, the main nonoil tradable sector, declined. Following the collapse of oil prices in 1982 and the rise in real interest

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158 Ibid., 143
161 Pinto, Nigeria During and After the Oil Boom, 420
rates, Nigeria experienced rising inflation, strict rationing of foreign exchange, and the possibility of debt rescheduling.\(^{162}\)

Public policy, as described by Marcellus, “is a tool of governance,” one to which a society has chosen to order, steer and direct its affairs.\(^{163}\) The Nigerian government, as the sections above indicate, pursued different legislation and policies in an effort to manage its oil sector, some of which produced success and others did not. For instance, as Lewis asserts, the early windfall years led to a dramatic shift in economic strategy, where the government shifted to nationalism and \(\text{étatisme}\).\(^{164}\) This resulted in high rates of protectionism and economic regulation leading to a relatively closed trade and investment regime.\(^{165}\) The Nigerian currency also became overvalued, in that, the government sought to provide subsidies to both consumers and domestic importers, which was politically expedient in expanding the redistribution avenues of the political elites.\(^{166}\) State-owned enterprises also increased in both number and variety, going from about 250 enterprises in 1971 to over 800 within the decade.\(^{167}\) Lewis describes Nigerian policies and policymakers in the following terms:

During the oil boom, policymakers were virtually indifferent to questions of policy credibility or international competitiveness. Economic windfall, and the political structure of the regime, influenced the setting for choice. Elites were in the throes of a windfall-induced mania through the early 1980’s, and they regarded flagging oil receipts to be transitory. Optimistic market forecasts about petroleum revenues and the easy availability of

\(^{162}\) Ibid., 419  
\(^{163}\) Marcellus, \textit{The imperative}, 54  
\(^{164}\) Lewis, \textit{Growing Apart}, 137  
\(^{165}\) Ibid., 137  
\(^{166}\) Ibid., 137  
\(^{167}\) Ibid., 142
credit from global money markets created a soft budget constraint in which fiscal reckoning could be delayed or averted by external resource flows.  

In 1971, the Nigerian government rolled out what it called the indigenization policy, with the following set objectives:

i) To create opportunities for Nigerian Indigenous businessmen

ii) To maximize local retention of profits and

iii) To raise the level of intermediate capital and goods production

This policy, formally called the Nigerian Enterprises Promotion Decree of 1972 (often referred to as the “Indigenization Decree”), was said to have mainly benefited corrupt military officials and state rulers, and was not a successful program. By 1975-80, a second indigenization policy also came into being (the National Development Plan), which was also the product of the machinations of the military and bureaucratic network in the government (an opportunity to increase their selfish gains). The second indigenization policy, which was also not successful as the first, was in fact seen by the public “as part of an expanding domain of state-supported entitlements that bolstered the political reach of military elites and their civilian allies.”

A better assessment of the policy and its implementation is offered by Chibuzo S. A. Ogbuagu, writing;

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168 Ibid., 150
170 Ogbuagu, The Nigerian Indigenization, 250
171 Ibid., 252
172 Ibid., 252
173 Lewis, Growing Apart, 143
Thus, the indigenization policy in Nigeria became an instrument for a few privileged Nigerians (indigenous businessmen, the top military rulers and bureaucrats, and other professionals) to amass considerable wealth for themselves through their control and manipulation of state powers. In this regard, the top civil servants as 'gatekeepers' of the policy organ and the highly influential indigenous businessmen seem to be the most significant beneficiaries in the indigenization program... the Nigerian Enterprises Promotion Decree represents an economic program embarked upon and disguised under a “popular” demand for economic nationalism.174

Nigeria’s external debt by the 1980’s had reached $18 billion, which amounted to 160% of its exports.175 Contemplating how to handle its massive external debts, the IMF had proposed certain structural adjustment programs (SAP) to essentially help Nigeria service its commitments; however, it was bogged down because policymakers did not want to “consider key policy changes such as devaluation, trade liberalization, and a reduction of fuel subsidies.”176 The country developed its own homegrown SAP (backed by the IMF and the World Bank), which essentially featured “budget restraint, exchange rate reform, trade liberalization, a reduction in subsidies, increased agricultural prices, financial liberalization and a partial privatization.”177 The policy, as Lewis describes, paved the way for some stabilization over a period of time, but it also produced well-known hardships, including wage cuts across public and private sectors, resulting in public resentment.178 Although the SAP was able to achieve some macroeconomic

174 Ogbuagu, *The Nigerian Indigenization*, 266
175 Lewis, *Growing Apart*, 161
176 Ibid., 161
177 Ibid., 162
178 Ibid., 164
stabilization, Lewis indicates that it did not “elicit a sustained supply response in productive activities that could alter the structure of the oil-dependent economy.”

It is evident from the above inquiry that Nigeria’s public/civil service lacked independence or the needed level of autonomy from political influence. It was shrouded in corruption, and the level and nature of bureaucracy, mainly characterized by nepotism, ethnic loyalties and elite cliques rendered it weak. Such view of an institution undermined its ability to provide the needed service required to guide policy continuity and adjustment. When it came to policies that were made and implemented, there is the obvious realization that some were ill-informed and misdirected. The perception of the windfall years continuing into eternity clouded their ability to see into the future to take responsible measures that could have helped avoid some of the negative effects of the tumbling years. In many ways, the elite groups were more concerned with personal enrichment than the future prosperity of the nation as a whole, evident in the vast amount of money rulers stole in oil revenues alone.

**Openness and Accountability**

John Dewey argues that;

Democracy is much broader than a special political form, a method of conducting government, of making laws and carrying on governmental administration by means of popular suffrage and elected officers. It is that, of course. But it is something broader and deeper than that.... It is, as we

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179 Ibid., 169
often say, though perhaps without appreciating all that is involved in the saying, a way of life, social and individual.\textsuperscript{180}

Such definition as argued by Dewey implies that a society without even the basic idea of democracy, such as popular suffrage and elected officials is perhaps lost in identity, because in my view, like culture, a way of life of a people is also a description of who the people are. Therefore, a society that embraces a multi-party political system, allows for the participation of its citizens at various levels of the government, and cherishes with recognition the need to have free and fair elections as well. An accountable government embraces such identity for its people. In this section, I briefly examine Nigeria’s struggle for a participatory democracy and freedom of the media, two of the many tenets of a free and open society.

\textit{Participative Democracy}

Since independence, Nigeria is said to have being dominated by military governments (see Appendix III, figure 4).\textsuperscript{181} Its first experience with civilian rule was between 1960 and 1966, a period of experimentation with the Westminster-style liberal democracy.\textsuperscript{182} Elections held in 1965 and 1983 were reportedly marred with fraud and violence, giving way to military interventions.\textsuperscript{183} The failure of this political period was blamed on the abuse of power by political elites who used their positions for personal


\textsuperscript{181} Guseh and Oritsejafor, \textit{Government Size}, 139


\textsuperscript{183} Lewis, \textit{Nigeria: Elections}, 130
enrichment and pleasing their regional and ethnic cleavages.\textsuperscript{184} As Lewis and Bratton indicate, almost every military regime had promised Nigerians the return to civilian rule, yet such promises faded as constant military take-over of the leadership became the norm.\textsuperscript{185} It was not until 1999, after the death of General Sani Abacha (in 1998), that Nigeria transitioned to a civilian government under the leadership of Olusegun Obasanjo (fourth civilian republic).\textsuperscript{186} Although the election of 1999 was reported to have had some accusations of fraud and abuse by security forces, it was still a turning point in Nigeria’s long road to democracy.\textsuperscript{187}

\textit{Freedom of the Media}

The Supreme Court of Nigeria in its 1961 ruling of \textit{Director of Public Prosecution v. Chike Obi} gave an “extremely restrictive interpretation to press freedom.”\textsuperscript{188} Relying on a colonial statute, the chief justice in his opinion determined that the statute made it illegal “to use words expressive of intention to effect the purpose of

\begin{flushleft}
\textsuperscript{184} Tar and Zack-Williams, \textit{Nigeria}, 541
\textsuperscript{186} Lewis and Bratton, \textit{Attitudes to democracy}, 1
\end{flushleft}
exciting a state of ill feeling against the government.”\textsuperscript{189} The statement that had been made by Chike, as cited by Michael P. Seng and Gary T. Hunt read:

> Down with the enemies of the people, the exploiters of the weak and oppressors of the poor! ... The days of those who have enriched themselves at the expense of the poor are numbered. The common man in Nigeria can today no longer be fooled by sweet talk at election time only to be exploited and treated like dirt after the booty of office has been shared among the politicians....\textsuperscript{190}

The emphasis was on the fact that, “a statement was not seditious if it only pointed out errors or defects in the government. But a statement could be unlawful even though it did not incite the public to violence.”\textsuperscript{191} Also in 1962, an official Secrets Act was passed; making it an offense to exchange any matter determined by the government as classified, and it also gave an extremely broad authority to the government in making information classified.\textsuperscript{192} As Michael P. Seng and Gary T. Hunt assert, another law deemed the most controversial, was the Newspaper (Amendment) Act of 1964, which banned “any person from publishing in any newspaper a statement, rumor, or report, knowing or having reason to believe that the statement, rumor or report was false.”\textsuperscript{193} Seng and Hunt further describes that the law essentially meant no one could use the excuse of not knowing that a statement was false, unless he or she took reasonable measures in ensuring the accuracy

\textsuperscript{189} Seng and Hunt, \textit{The Press and Politics}, 88  
\textsuperscript{190} Seng and Hunt, \textit{The Press and Politics}, 88  
\textsuperscript{191} Ibid., 89  
\textsuperscript{192} Ibid., 89  
\textsuperscript{193} Ibid., 89
of the information. Local governments also passed certain laws in the 1960’s that banned newspapers that criticized them.

The 1976 constitutional drafting committee, like the 1963 constitution, decided not to provide a special provision for press freedom, indicating that “the majority of the members, whilst recognizing the need to protect freedom of the press, felt there were [sic] no grounds for giving any Nigerian citizen a lesser right to freedom of expression than any other person or citizen who happens to be a newspaper editor or reporter.” There were some protections of fundamental rights between 1966 and 1979 by the military government, who also affirmatively lifted some of the bans imposed on the newspapers during the civilian rule of the first republic. When the civilian government took control in the early 1980’s, there were reports of abuse and detention of journalists for criticizing the government. As of the 1990’s, there were still laws on the books meant to tame the media or essentially make them powerless. As cited in the work of Emmanuel O. Ojo, the 1999 Constitution is still unclear on the nature of press freedom, although it provides the protection needed by the other arms of government.

Nigeria’s short experience, perhaps, arguably no experience with a functioning democratic political system, certainly made the country susceptible to the excesses of

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194 Ibid., 89
195 Ibid., 89
197 Seng and Hunt, *The Press and Politics*, 89
198 Ibid., 91
200 Ojo, *The Mass Media*, 826
military regimes and also corrupt ineffective civilian rule. For even under the later, there still existed the limitations on the freedom of the media as well as citizens. In many ways, the military used such incidences and many others to overthrow the civilian leaders. When the people of a country have no role in electing their leaders, nor have the ability to question the actions and policies that are made, then such a society offers an identity of a people alienated from the process of governance.

**Assessment of Nigeria’s Institutional Environment**

**Rule of Law**

*Legend for curse resistance/receptive scale*

<table>
<thead>
<tr>
<th>Scale</th>
<th>Description</th>
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<tbody>
<tr>
<td>Very Strong, High</td>
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<th>CURSE RESISTANT</th>
<th>CURSE RECEPTIVE</th>
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<tr>
<td>Weak contracts and enforcement</td>
<td>Very low confidence in courts/police</td>
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<td>Very weak property and fundamental rights</td>
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**Figure 2: Nigeria: Rule of Law- Curse resistant and receptive scale**

Rule of law in Nigeria was generally very weak as demonstrated by Figure 2, implying that it was mostly curse receptive in this context. Contracts were done behind
closed doors by the political elite without public involvement. Sometimes, these elites had little to no knowledge of what they were doing, thereby allowing for a corrupt process, self-pleasing to their network. There was also the prevalence of corruption in the courts, sometimes only available to the powerful in the country. The police similarly were not trustworthy, as they only held their allegiance to these powerful elites, while abusing the rights of other citizens. In this case, the right of the average Nigerian citizen was basically non-existent, as property and basic human rights were trampled on.

*Effective Governance*

**Legend for curse resistance/receptive scale**

- Very Strong, High/ Most Curse resistant
- Strong, High/ More curse resistant
- Fairly Strong, High/ Fairly Curse resistant
- Fairly Weak, Low/ Fairly curse receptive
- Weak, Low/ More curse receptive
- Very Weak, Low/ Most Curse receptive

*Figure 3: Nigeria: Effective Governance- Curse resistant and receptive scale*

For an estimated $400 billion in oil revenue to be stolen by the country’s leaders, something purported to be equal to the overall foreign aid given to Africa in the same
time period (1960-1999); it shows how weak and corrupt the country’s civil service was. In any case, they also represented the interest of those in power, as it helped bolster the leaders’ political control and suppression of the people. The civil service was merely another arm of political machination, growing the influence of the country’s rulers. It was not result-oriented, and was a bureaucracy filled with nepotism and ethnic loyalties instead of people with the required merit. Policies adopted and implemented did not focus on the long term prosperity of the nation, rather, a short term benefit to which the ruling class could profit from. They embraced policies that were politically expedient instead of focusing on its credibility and the impact it will have on the competitiveness of the country internationally. These made the country’s government ineffective and mostly curse receptive (Figure 3).

*Openness and Accountability*

**Legend for curse resistance/receptive scale**

| Very Strong, High/ Most Curse resistant |
| Strong, High/ More curse resistant |
| Fairly Strong, High/ Fairly Curse resistant |
| Fairly Weak, Low/ Fairly curse receptive |
| Weak, Low/ More curse receptive |
| Very Weak, Low/ Most Curse receptive |

**CURSE RESISTANT**

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**CURSE RECEPTIVE**

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*Figure 4: Nigeria: Openness and Accountability- Curse resistant and receptive scale*
The dominance of Nigeria’s political history by military leaders over the course of four decades is indicative of the lack of a participative democracy. Even when elections were held, it was marred with fraud and violence. Freedom of the media was undermined by both military and civilian leaders who pursued laws against increasing such freedom. As earlier indicated, local leaders were reported to have passed laws to ban news agencies that tended to criticize them. All these when put together (Figure 4) reflected Nigeria as having a mostly curse receptive environment when it came to openness and accountability.

When all these indicators are put together on the curse resistant and receptive scale, as shown in Figure 5, Nigeria’s institutions reflected a mostly curse receptive environment.

**Legend for curse resistance/receptive scale**

- Very Strong, High/ Most Curse resistant
- Strong, High/ More curse resistant
- Fairly Strong, High/ Fairly Curse resistant
- Fairly Weak, Low/ Fairly curse receptive
- Weak, Low/ More curse receptive
- Very Weak, Low/ Most Curse receptive

**Figure 5: Nigeria: Curse resistant and receptive scale**
Such institutional environment, certainly contributed to the country’s demise as a resource cursed nation, a result of weak, corrupt and unaccountable system that alienated the citizens and protected the ruling class. Although the oil was deemed owned by all citizens, the profit from the oil revenue was amassed by the elite cliques, leaving the vast number of its people in poverty.

Underlying Causes of Nigeria’s Curse Receptiveness

One of the first identifiable causes is the *legacy of colonization*. As discussed in the background to this Nigerian case study, the system employed by the colonial masters was one of division, meant to divide the people based on their ethnicity and exploit them for the benefit of the ruling class.\(^{201}\) For instance, although the Mineral Oils Ordinance of 1914 was gradually weakened post-independence, it became the bedrock of strong foreign oil companies’ presence in the early years of Nigeria’s of independence. As Nwokeji described it, the 1960’s saw an industry that was mainly in the hands of IOC’s.\(^ {202}\) Although changes were made later on, it still ended up favoring the foreign oil companies, and perhaps enriching the bank accounts of the elite class.\(^ {203}\) The changes that were even made mostly ended up favoring the oil companies more than the Nigerians. When it came to the police and courts, a similar colonial effect was found. The police force was essentially the go-to men of the colonial masters as well as the elite class that ruled Nigeria in the decades after independence. They were used by both traditional

\(^{201}\) Marcellus, The imperative, 57
\(^{202}\) Nwokeji, The Nigerian, 12
\(^{203}\) Atsegbua, The development, 62
rulers and politicians as instruments to not only enhance their corrupt practices but also brutalize their opponents and the citizens of the country (dating back to the 1930’s).\textsuperscript{204} Trusts in the courts were virtually absent too, as Yusuf indicates that it was seen as available to those who can afford to buy it.\textsuperscript{205} Furthermore, statutes from the colonial era were still being applied in decisions by the courts, as was used in limiting the freedom of the media.\textsuperscript{206}

Another important cause was the nature of political leadership. It is very easy to determine from the analysis provided under each indicator the extent to which Nigeria’s political leaders, whether civilian or military rule, abused the power of the office they held. The leadership in Nigeria between 1960 and 2000 was mainly in the hands of the military (see Appendix III, figure 4). As Richard Payne and Jamal Nassar writes, military leadership is the “phenomenon of intervention by military leaders in politics and their attempts to control governmental institutions….”\textsuperscript{207} This consistent military occurrence affected the nature of policy making and implementation, fundamental rights as well as the transition to democracy. The Cleen foundation’s report revealed that post-1966, brutality by the police force was more rampant under successive military regimes.\textsuperscript{208} Similarly, Alemika and Chukwuma also argue that “the most important source of the infringement of these (fundamental rights) was [sic] protracted military rule….\textsuperscript{209}

Furthermore, the political elites together with the military leaders, used the revenues

\begin{thebibliography}{9}
\bibitem{204} Marenin, Policing Nigeria, 75
\bibitem{205} Yusuf, Calling the Judiciary, 218
\bibitem{206} Seng and Hunt, \textit{The Press and Politics}, 88
\bibitem{208} Cleen Foundation, \textit{Analysis of Police}, 14
\bibitem{209} Alemika and Chukwuma, \textit{Police-community violence}, 16.
\end{thebibliography}
coming from the oil industry to enrich themselves and expand their network of 
bureaucratic reach and control within the civil service and the oil industry.\textsuperscript{210} As cited in 
the paper by Okpanach, an estimated $400 billion was stolen by the corrupt leaders over 
three decades.\textsuperscript{211} When it came to how policies were made, it was usually among the 
military leaders and elite civilian cliques, who designed policies without public scrutiny 
or engagement.\textsuperscript{212}

\textit{Nigeria: The Time effect Analysis}

The time effect hypothesis (see Appendix II), examines curse resistant and curse 
receptive institutions in relation to time (representing a period of years) and the resource 
curse or blessing. The assumption is that institutions develop over time, and depending 
on the kind of institutional characteristics present in a developing nation (both pre and 
post-resource abundance), the institution can turn out to be resistant to the possibility of a 
curse or receptive to it. Applying this concept to the Nigerian case, it can be determined 
that institutions over time were weak, corrupt, untrusted and very serving of the few. Pre-
independence, the existing institutions already exhibited curse receptive tendencies; 
however, they became more evident as the oil boom and bust periods emerged, that is its 
susceptible institutions became more curse receptive over time. In the \textit{take-off} years 
(1960 – 1970), Nigeria was described as having the potential of becoming a prosperous 
nation.\textsuperscript{213} The prospect of such prosperity was still permissible in the 1970’s as the 
OECD in 1979 (cited in Omopariola’s article) determined Nigeria could industrialize by

\begin{thebibliography}{9}
\bibitem{210} Ogbuagu, \textit{The Nigerian Indigenization}, 266
\bibitem{211} Okpanach, \textit{Confronting the Governance}, 28
\bibitem{212} Ogbuagu, \textit{The Nigerian Indigenization}, 250.
\bibitem{213} Falola and Genova, \textit{The politics of the global oil}, 134.
\end{thebibliography}
The 1970’s were Nigeria’s boom years (see Appendix III, figure 4), where higher oil prices brought in higher revenue to the government, yet bad economic policies, leadership crisis, corruption and other external factors drove the country into huge external debts by the 1980’s. As the boom turned into bust, Nigeria continued to spiral down economically over the following decades due to such curse receptive institutions that evolved over the years. As Aluko and Adesopo indicated, the bureaucratic institutions were essentially not result oriented, mainly corrupt, and full of nepotism.

**Nigeria: Interplay of indicators**

The interplay of indicators demonstrates the relationship between the various indicators and shows how they impact one another.

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216 Aluko and Adesopo, An appraisal, 18
Figure 6 exhibits the relationship between rule of law and openness and accountability in the case of Nigeria. As shown in the diagram, the impact of less freedom of the media, is the freedom of corrupt officials and the elite class to make deals behind closed doors without the needed public scrutiny. In the Nigerian case, contracts were done behind closed doors without the public knowing the details within, something that granted the leaders the opportunity to be able to enrich themselves with the profit from oil revenues. The courts and police service could not be trusted to punish these leaders, since they were also corrupt and protectors of these leaders. This meant that the press lived in fear of being arrested and brutalized should they expose any corrupt or abusive act in the system. The same is reflected on property and fundamental rights and the absence of a participative democracy.

**Figure 7: Nigeria: Relationship between Rule of Law and Effective Governance**

- **Very Weak Rule of Law**
- **Very Weak Contracts and enforcement**
- **Very Low Confidence in Courts and Police**
- **Very Weak Property/Fundamental rights**
- **Ineffective Governance**
- **Very Weak Public/Civil Service**
- **Very Weak Policy Formulation/Implementation**

**LEGEND**

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Negative Impact

Impact on other factor

Mutual Impact
Like Figure 6, Figure 7 also shows the relationship between rule of law and effective governance (in the Nigerian case ineffective governance). A civil service that was filled with people loyal to the leaders, meant contracts and policies were done not necessarily by the best and brightest minds, but by those who were either in the same cliques as the leaders or shared similar ethnic backgrounds. They would rather seek the interest of these leaders than the interest of the nation. Such people could not be brought to justice because of the corrupt courts and police. Also, weak policies influenced how contracts were written. As the boom years were expected to continue, much attention and favor was accorded to the oil industry compared to other areas of the economy, thereby encouraging a more favorable contract to attract more foreign companies, which in many ways also benefited the leaders.

Figure 8: Nigeria: Relationship between Effective Governance and Openness and Accountability

![Diagram showing relationships between governance and openness/accountability.]
In figure 8, the diagram demonstrates that the result of a lack of openness and accountability is an ineffective government. When the process of policy making and implementation is closed to the public, or citizens have no say in who gets to rule them, the impact is policies made to please the elite class and those in their network, as demonstrated in the Nigerian case. Similarly, the civil service was also filled with political allies, and the media and other citizens had no ability to question the process of hiring and governing in general. This meant that people were alienated from their government and were left to the mercies of their misguided and narrow interest.

To recapitulate, the assessment of Nigeria’s institutional environment based on the context provided in the case study clearly showed a very curse receptive environment. This, I argue was a major factor to its experience of the resource curse. Such curse receptive environment in my view exacerbated the level of corruption and gave way to bad economic policies. It also allowed for the ability of the political class to steal millions of dollars in oil revenue even as the vast majority of citizens lived in poverty.
Background

As Richard Rathbone writes, “independence days are intended to be joyful occasions…” That was certainly true for Ghana on March 6, 1957, when the country gained independence from British colonial rule. David E. Apter describes that occasion as

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“unique in African history,” although he also admits it was “pure political theater.”

Boni Yao Gebe also shares a similar outlook on the importance of Ghana’s independence, describing it as “a significant milestone, not just for the people of the Gold Coast, as the colony was until then known, but also for the entire people of Africa and those in the Diaspora.”

Dr. Kwame Nkrumah, who led the push for Ghana’s independence became its first prime minister and President (after Ghana was declared a republic in 1960). He had hoped “to develop Ghana into a modern, industrialized unitary state, and set about building a nation that the rest of Africa would be proud to look up to.”

Under Nkrumah’s leadership, the nation saw some needed rapid infrastructural developments, including the building of the Akosombo dam, which continues to generate electricity for Ghanaians today. However, by 1966, he was overthrown in a bloody coup d’état, something believed to have been sparked by “economic indices and the leader’s intolerance for opposition.” After the 1966 coup d’état, the country’s struggle for a stable political environment coupled with dire economic challenges steered it into a bloodless coup in 1972 (see Appendix IV), led by Col. I. K Acheampong, a member of the National Redemption Council (NRC).


221 Ghana: Five decades of independence, 2


economic situation in the country and bring about greater development, corruption and mismanagement joined with broken economic promises led to Acheampong’s arrest by his own chief of staff (Lt. Gen. Frederick Akuffo) who replaced him as the head of state in 1978.\(^{224}\) By 1983, Ghana had seen nine changes of government and four military coups since 1957 (see Appendix IV); however it did not experience most of the violence that was occurring in other African countries.\(^{225}\) Kwabena A. Anaman describes Ghana’s political environment between 1966 and 1981 with the following:

The two elected civilian governments both had exactly 27 months of tenure, from October 1969 to January 1972 and from September 1979 to December 1981, respectively. The military coup on the 31st of December 1981 ended the third experiment with multi-party elected civilian governments. The coup established the Provisional National Defence Council (PNDC) under Flight Lieutenant Jerry Rawlings to oversee the administration of the country. The years, 1982 and 1983, were largely politically unstable with many attempted coups.\(^{226}\)

It was not until 1992, with pressure from both the domestic and international community that the country under the leadership of Rawlings returned to democracy, establishing the fourth republic.\(^{227}\) The period was marked with an election in December of 1992 and a constitution that “was entered into force on January 7, 1993.”\(^{228}\)

\(^{224}\) History, *Background Notes*, 3


\(^{227}\) History, *Background Notes*, 3

\(^{228}\) Ibid., 4
election was won by Rawlings and his new party, the National Democratic Congress (NDC) with the opposition boycotting the parliamentary election of that year.\textsuperscript{229}

Aside from Ghana’s political struggles, it has also been known to be the “world’s second largest cocoa producer behind Ivory Coast, and Africa’s biggest gold miner after South Africa.”\textsuperscript{230} Matthew I. Mitchell writes that “as the world’s leading producer of cocoa, a key exporter of gold, and a country blessed with a solid infrastructure and a relatively educated and skilled workforce, Ghana was seen as ‘bright and promising star of Africa’ at the onset of independence in 1957.”\textsuperscript{231} However, he does indicate that, Ghana’s heavy reliance on its export earnings from cocoa, which accounted for more than 70 percent of earnings, led to its demise as a low-income nation.\textsuperscript{232} Mitchell further claims that the politicization of the cocoa sector contributed to Nkrumah’s downfall in 1966.\textsuperscript{233} Combined with the stagnation of cocoa prices on the world market and the spread of contagious diseases that affected cocoa trees in the 1970’s and 1980’s, the Ghanaian economy became worse.\textsuperscript{234} By 1983, Shashi Kolavalli and Marcella Vigneri indicate that Ghana had entered its recovery and second expansion phase, something they attribute to the Economic Recovery Program (ERP) of 1983.\textsuperscript{235} This program contained within it the Cocoa Rehabilitation Project, which Kolavalli and Vigneri explain “included

\begin{footnotesize}
\textsuperscript{229} Ibid., 4
\textsuperscript{231} Mitchell, \textit{Insight from the Cocoa Regions}, 130
\textsuperscript{232} Ibid., 131
\textsuperscript{233} Ibid., 131
\textsuperscript{234} Ibid., 131
\end{footnotesize}
increasing the farm gate prices paid to Ghanaian farmers relative to those paid in neighboring countries, thus minimizing the incentive to smuggle, and devaluing the cedi, thus reducing the level of implicit taxation of farmers.”

Even with the abundance of cocoa and gold, Ghana is still classified as a poor country.

Ghana, over the years has long sought to add to its list of natural resources, particularly oil. The first oil company believed to have pioneered this effort was the West African Oil and Fuel Company (WAOFCO). In fact between 1898 and the late nineties, Ghana is reported to have had “an estimated hundred exploration wells,” all to no avail “except the Saltpond oil find in 1970.” According to Robin Sutherland, the estimated oil in Saltpond was 45 million barrels, and in that same year, there was also an oil find in the Volta Tano-IX, the first offshore Tano well. From 1978 to 1980, Philips was reported to have also discovered oil and gas in the North and South Tano, and by 1985, a law was established to provide the legal and fiscal framework for Exploration and Production (E&P) activities in the country with the Ghana National Petroleum

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236 Kolavalli and Vigneri. 2011, Cocoa, 204
Corporation (GNPC) as the statutory body with such responsibilities.\textsuperscript{241} In 1999, Hunt Oil was also reported to have encountered about fourteen feet of light oil, and in 2002 another oil company discovered light oil in the “upper cretaceous reservoir.”\textsuperscript{242} By 2007, a major breakthrough had occurred, as discovery of oil in the Jubilee fields was determined to be world class sweet oil, and in the words of Robin Sutherland, was a “major breakthrough after a ‘Century of Preparation.’”\textsuperscript{243} According to GNPC, from 2001 to date, “significant foreign direct investments in the upstream sector of about US$550 million” have been realized in the country.\textsuperscript{244} Furthermore, they also indicate that other E&P activities are ongoing in four sedimentary basins.\textsuperscript{245} A statement issued by the Managing Director of GNPC asserts that “the significant discoveries are not surprising given the extent of work done by the corporation over the years and the intense interest in the Tano and Cape Three Points basins that these efforts have generated.”\textsuperscript{246} With this century of preparation climaxing in such eventful happenings of commercial oil discovery, the question that lies ahead, is whether Ghana can avoid the resource curse? The previous background regarding cocoa and gold indicates Ghana has had some curse receptiveness, but the ensuing sections, like in the Nigerian case study, will look at the historical to present day characteristics of Ghana’s institutions through the lens of the indicators; rule of law, effective governance and openness and accountability.

\textsuperscript{241} Sutherland, \textit{Exploration history}, 4
\textsuperscript{242} Ibid., 4
\textsuperscript{243} Ibid., 5
\textsuperscript{245} Activities: Exploration &Production, GNPC
\textsuperscript{246} Activities: Exploration &Production, GNPC
Rule of Law

In a 2004 report of the UN Secretary-General on the Rule of Law and Transitional Justice in conflict and post-conflict societies, it states that:

The rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.  

Just like in the Nigerian case, I will examine Ghana’s rule of law through the lens of the nature of contracts and enforcement, effective governance and openness and accountability.

Contracts and enforcement

According to the GNPC, there are currently 12 offshore licenses for different companies operating in the basins. These licenses are guided by three main principal laws: The Petroleum Exploration and Development Law, 1984 (PNDCL 84), which “provides the framework for the management of oil and gas exploration and development,” and also establishes the “basic terms and conditions of petroleum

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248 Activities: Exploration & Production, GNPC
agreement negotiated and executed in Ghana;” the Ghana National Petroleum Corporation Law, 1983 (PNDCL 64), granting “the Ghana National Petroleum Corporation and charges the corporation first as a regulator and second as a participating agent in exploration and production;” and finally, The Petroleum Income Tax Law, 1987 (PNDCL 188), which “sets out the taxation elements of petroleum operations.”

Kwamina Panford indicates that “these three principal statutes are supplemented by the Model Petroleum Agreement (MPA), Environmental Protection Agency Act, 1994 (Act 490), and the National Petroleum Authority Act, 2005 (Act 691).” There are also other legislative efforts, including “the passage of the Petroleum Revenue Management Law by Parliament in February 2010 and the proposed amendments to the Exploration and Production Law to reflect best international practices.” Panford also writes that there are three basic types of contractual agreements when it comes to rights and obligation of a resource owner and contractors, these are, concessions, Production-Sharing Contracts (PSC) and Service Contracts (SC). According to him, “today, most agreements use a hybrid of concessionary and PSC’s,” and “there are also Joint Ventures (JV’s) by way of partnership-based approach which involves creating a jointly managed project company.” In the Nigerian case, they went through all three types of agreements. In Ghana, article 6 of the MPA requires what is called the Joint Management Committee (JMC), to which it states;

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250 Panford, The Crucial Roles of Ghana's Petroleum Agreement, 82

251 Ibid., 82

252 Ibid., 83

253 Ibid., 83
In order that the parties may at all times cooperate in the implementation of petroleum operations, GNPC and Contractor shall not later than thirty (30) days after the effective date establish a Joint Management Committee (JMC)…. the JMC shall oversee and supervise the petroleum operations and ensure that all approved work programs and development plans are complied with and also that accounting for cost and expenses and the maintenance of records and reports concerning the petroleum operations are carried out in accordance with this agreement and the accounting principles and procedures generally accepted in the international petroleum industry.254

Even though the establishment of a JMC might seem Ghana’s oil contractual agreements are based on JV’s, Panford disagrees. In fact, he writes that “contrary to the perception in the Ghanaian popular media [for example, Ghanaweb.com], the contractual agreement currently in place in Ghana defies simple categorization within existing typology of agreements.”255 He further makes the following observation;

Despite State participation interests acquired by GNPC, MPA Article 26.7(p 78) states that this agreement in not a joint partnership. Furthermore, each party’s rights and obligations are separate and ‘not joint.’ These provisions make it inaccurate to describe Ghana’s MPA as a joint venture type because the MPA states in plain and legal language that it is not. ‘This Agreement shall not be construed as creating a partnership or joint venture, nor an association or trust … or as authorizing any party to act as agent, servant or employee for any other Party for any purpose… (MPA, Article 26.7).’ In short, the MPA together with our observations of relations between the GNPC, the contractors and the operators (Tullow,

255 Panford, The Crucial Roles of Ghana’s Petroleum Agreement, 82
Kosmos and Anadarko) on the Jubilee Field Phase 1 show that current Ghanaian petroleum agreements is of a hybrid type.\textsuperscript{256}

The MPA states that “all petroleum existing in its natural state within Ghana is the property of the Republic of Ghana and held in trust of the State.”\textsuperscript{257} It also indicates that the “GNPC is further authorized to enter into association by means of a petroleum agreement with a contractor for the purpose of exploration, development and production of petroleum,” to which it also states;

\begin{quote}
The parties recognize that Ghanaian nationals should as soon as reasonably possible be engaged in employment at all levels in the petroleum industry, including technical, administrative and managerial positions, and that to achieve this objective an adequate program of training must be established as an integral part of this agreement.\textsuperscript{258}
\end{quote}

The agreement also specifies that the GNPC shall have a 10\% initial interest when it comes to all petroleum activities under this agreement.\textsuperscript{259} Furthermore, it states in article 3 of the agreement that “the exploration period shall begin on the effective date and shall not cover a period of more than seven (7) years except as provided for in accordance with the Petroleum Law.”\textsuperscript{260} Kwasi Prempeh and Cindy Kroon have written that, traditionally “the GNPC issued new licenses and contracts to investors in the petroleum sector, which was [sic] not in line with international best practices as they require separation of commercial and regulatory activities.”\textsuperscript{261} This, they argue has changed since the approval

\begin{footnotes}
\item 256. Ibid., 83-84
\item 257. Model Petroleum Agreement of Ghana, GNPC, 1
\item 258. Ibid., 1
\item 259. Ibid., 8
\item 260. Ibid., 11
\item 261. H. Kwasi Prempeh and Cindy Kroon, “The Political Economy Analysis of the Oil & Gas Sector in Ghana: the Implications for STAR-Ghana.” Submitted to STAR Ghana
\end{footnotes}
of the 2011 Petroleum Commission Act, which was made possible through “broad
countrywide consultations and effective lobbying of parliament by both the Ghanaian
civil society and international donors.” Prempeh and Kroon
however assert that, the regulations to the Act have yet to be developed. The pressure
from civil society groups and other donors over the transparency of the process has also
been increasing. Some have called for “public disclosure of all oil and gas contracts by
government, claiming it “would remove the incentive for public officials to negotiate bad
contracts on behalf of the State,” and for that reason, all draft agreements and contracts
must be widely published for 30 days for the public to make input before ratification.”
Prempeh and Kroon have indicated that, such pressures did not yield anything until one
of the oil companies, Kosmos “decided to publish the Jubilee contracts when it filed for
an IPO in the United States.”


Ibid., 13
An example of such incidence they claim happened when the New Democratic Congress (NDC) government investigated how a company’s affiliation to the previous administration (New Patriotic Party (NPP)) granted it access to a minority share in the Jubilee block. The government was reported to have later forced the company to sell its interest in the field to Tullow for $300 million.\textsuperscript{267} There was also a reported hold up in funding when a review of a Ghana oil contract showed “revelations about a subcontract linked to a former state official.”\textsuperscript{268} The incident as reported by William Wallis, showed that a consortium of banks including and led by the International Financial Corporation (IFC), “called for a fresh round of due diligence after Japan’s Mitsui Ocean Development & Engineering revealed the previous month [sic] that it had agreed to pay fees to…. a consultancy company part-owned by Tsatsu Tsitaka (GNPC head from 1988-2000).”\textsuperscript{269} This incident according to the paper threatened to impede Ghana’s opportunity at becoming an oil producing nation.\textsuperscript{270} The Revenue Watch Institute reports that although Ghana has made strides towards contract transparency, it still faces the challenges of doing away with “secrecy surrounding mining and oil contracts.”\textsuperscript{271} The Institute of Economic Affairs (IEA)-Ghana has also raised some concerns about Ghana’s oil and gas contracts in general, arguing that “there is need to review most of Ghana’s oil contracts

\begin{footnotes}
\item[267] Ibid., 13
\item[269] Wallis, \textit{Review of Ghana}
\item[270] Ibid.
\end{footnotes}
which were signed as far back as 2005 to reflect current economic situations.” He also indicated that “there needs to be an equivalent increase in favorable contractual arrangements to mirror the decrease in exploration risk now that oil has been discovered.”

Confidence in Courts and Police

The Ghana Police Service Act-1970 stipulates that the functions of the body is to engage in “crime detection and prevention,” “apprehension (arrest) and prosecution of offenders,” “maintenance of law and order,” and “due enforcement of the law.” Historically, professional policing in Ghana began during in 1821, under the rule of the colonial masters. Prior to that, it is reported, just like in the Nigerian case, to be under the “traditional authorities such as the local headsmen and chiefs, who employed unpaid messengers to carry out the executive and judicial functions in their respective communities.” With the passage of the 1894 Police Ordinance, the institution became formalized and it also gave “legal authority for the formation of a civil police force.” Like Nigeria, Ghana’s police force has its root from the colonial era. As cited by the Commonwealth Human Rights Initiative in the report, The Police, The People, The Politics, Police Accountability in Ghana, the Ghana Police “was firmly aimed at ensuring trade security and protection of the colonizing forces – the initial officers were ex-militia

273 Ibid.
275 Ibid.
276 Ibid.
277 Ibid.
that had been in the traders’ employ and were selected on the basis of their physical strength.” Raymond A. Atuguba in his work also cites;

The police force was also used for the protection of the political class. At no moment was this more evident than during the riots of 1948. The shooting and killing of two of the 6 rioters was to prevent the advance of the party to Christianborg Castle, the seat of the government. For this “great” work, the then commander of the police force, who personally did the shooting and killing, was decorated with a medal.

Brutality in the police force has its roots from the colonial era, just as in the Nigerian case. As Atuguba cites, “the police force at its origin ‘was primarily a military body, but included a civil police section’.” He continues to write that the brutality still exist in the force today. In a 2010 country report by the U.S Department of State, similar to what Atuguba cites in his work, it found that the Ghana police service uses excessive force which leads to deaths and injuries, and there is also police impunity.

280 Atuguba, Police Oversight in Ghana, 8
281 Ibid., 16
vigilante violence during the year.”

There were extortions, illegal checkpoints and the arrest of citizens “in exchange for bribes from disgruntled business associates of those detained.”

The cause to some of these happenings was identified as a result of low salaries.

Atuguba indicates that these recent events are not just the results of post-independence phenomenon. He refers to a 1974 report of the Commission of Inquiry into Bribery and Corruption, which found at the top of its list the police. In Atuguba’s view, the following describes today’s Ghana police service;

The Ghana Police Service is still primarily controlled by the political class. It is still used to protect the propertied class and the political class. It is still the frontline brutal enforcer of various inimical rules of law that are detestable to the ordinary citizenry and it is to that extent loathed. The symptoms of the dysfunction of the police service abound and are today on the national agenda. Consequently, there is a rush to reform the Ghana Police Service, rather like the rush to reform the Ghana Police Force beginning in 1948, which ended up hi-teching and militarizing an already brutal force.

Post-Independence, the police service saw some drastic changes, which included a reduction in the size of the police service from 13,247 in 1964 to 10,709 in 1965. This was a consequence of an assassination attempt on the then President Nkrumah by a police officer in 1964, leading to the arrest and detainment of top police officials and the

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284 Ibid., 9
285 Ibid., 9
286 Atuguba, *Police Oversight in Ghana*, 18
287 Ibid., 18
288 Ibid., 18
president indicating his mistrust for the institution.\textsuperscript{290} There were police officers also involved in the 1966 overthrow of Dr. Nkrumah, and when the military again seized power in 1972, the leadership of the National Redemption Council contained the head of the police.\textsuperscript{291} In 1974, the police service was said to have being “institutionally removed from the administrative and bureaucratic control of the public service commission….\textsuperscript{292} Emmanuel Kwesi Aning describes that “several key changes were brought about. Two key ones were that the Police Council was now chaired by the IGP and several distinctive branches were formed.”\textsuperscript{293}

Ghana’s judicial process is also described by the country report of the U.S State Department as having “prolonged pretrial detention.”\textsuperscript{294} Such a claim is also confirmed by a discussion paper reviewed by AfriMap, The Open Society Initiative for West Africa and The Institute for Democratic Governance. They indicate that although “the right to fair trial as provided for in the constitution is generally respected by the courts,” such guarantees they proclaim are “routinely violated by long delays in bringing cases to trial: the police, magistrates, and A-G’s Department each assert that the others are to blame for this situation.”\textsuperscript{295} The discussion paper also indicates that witness protection is of great concern, since victims of armed robbery have often “expressed fear of reprisals by the

\textsuperscript{290} Ibid., 13
\textsuperscript{291} Ibid., 13
\textsuperscript{293} Aning, \textit{An Overview of the Ghana Police Service}, 9
\textsuperscript{294} 2010 Country Reports on Human Rights Practices: Ghana, \textit{U.S Department of State}, 1
suspects or their agents.” Historically the court system in Ghana has undergone various changes. For instance between 1979-1981, the third republic had a hierarchy of the courts in the following order; the supreme court, the court of appeal, the high court, the circuit court, the district court grade I, and finally the district court grade II. However changes came into effect when in 1982, the Provisional National Defense Council (PNDC) government (a military led government) introduced what it called the public tribunals. The tribunals “operated parallel to one another as two distinct and separate adjudicating institutions. No appeals or reviews in one system could be taken up in the other system”, and “administratively, the courts were run by the Judicial court, while the tribunals were run by the board of public tribunals under PNDCL 78.” By 1993, these public tribunals were abolished and replaced with regional tribunals, with the chairman equated to the high court judge when it came to qualifications.

A better description of Ghana’s judiciary is well said in a quote by Justice Michael Kirby, that “without a ‘tip,’ a file may be lost and will never make its way to a hearing. Without a bribe, a favorable decision may not be assured.” The 2013 Heritage Foundation Index of Economic Freedom also describes Ghana’s judicial system as being “subject to political influence and suffers from corruption, albeit to a somewhat lesser extent than elsewhere in the region. The courts are slow to dispose of cases and face

296 AfriMap & OSISA, Ghana, 15
298 Historical Development of the Courts after Independence, Judicial Service of Ghana
299 Ibid.
challenges in enforcing decisions, largely because of resource constraints and institutional inefficiencies.”

Property and Fundamental Rights

Chapter five of the 1992 Constitution of the Republic of Ghana specifies the fundamental human rights and freedoms of persons in the country. It guarantees that “every person in Ghana, whatever his race, place of origin, political opinion, color, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.” Some of the rights outlined in the chapter include, the right to personal liberty, that the dignity of all persons shall be inviolable, and that all persons shall be equal before the law. However, historically, the country has had a bad human rights record. For instance in 1958, an act passed by the Nkrumah administration, the Preventive Act (1958), “gave officials the right to detain persons up to five years without trial. It restricted individual freedoms and was considered one of the first major official acts of human rights infringement.” Like the case of Nigeria, Ghana under the different military regimes saw an increase in human rights violations. In 1979, under the leadership of the military leader Rawlings, it is reported that “Amnesty International raised serious concern about unlawful detention, 

305 History of Human Rights in Ghana, Human Rights Advocacy Center
arbitrary imprisonment, killings and unfair trials.”

In fact, after the election of the late President Atta Mils in 2008, Amnesty International presented him with what they called “Human Rights Concerns.” It included; “ending illegal detention and ensuring prompt and fair trials for the thousands of prisoners awaiting trial…,” and “eradicating the widespread violence against women and legislative reforms to ensure equal rights for men and women.”

Ghana does have some institutions that deal with human rights issues, including the Ghana Police Service, Domestic Violence and Victim Support Unit (DOVVSU) and the Commission on Human Rights and Administrative Justice (CHRAJ). However, it is clear from the level of corruption and abuse by the police itself, that the protection that is needed may not be there or effective. Stephen Sondem writes that “the constitutional experience of many countries, including Ghana [sic], demonstrates that a catalogue of constitutional rights together with provisions for judicial enforcement is inadequate to ensure meaningful enforcement of fundamental rights and freedoms on the ground.”

When it comes to property rights, Ernest Ayeetey and Christopher Udry both write; “Insecure property rights reduce the ability of borrowers to pledge land as collateral and thus tighten credit constraints,” and that “Ill-defined property right over land can inhibit

306 Ibid.
308 Ghana Human Rights, Amnesty International
land transactions – rentals or sales – and potential gains from trade are lost.”

They claim that in Ghana, for instance, land ownership is by virtue of membership in a corporate group like the extended family. However, they state “a robust market is emerging for land purchases and rentals, particularly in urban and periurban areas.”

There has also been improvement or advances in the enforcement of intellectual property rights. James M. Roberts and John A. Robinson have stated that property rights can actually solve the resource curse problem. Which they argue is the first step before creating and maintaining rule of law. A heritage foundation index, that compares the level of property rights among nations across the continent, found that Ghana has remained stable in terms of the scoring since 1995, whiles Nigeria although was stable between 1995 and 1999, started to decline thereafter.

Based on the data collected, Ghana is found to be mostly unfree, although above the world average, whiles Nigeria on the other hand has a repressive system (was mostly unfree but declined to repressive after 1999).

The reality is Ghana has a long road ahead if it truly wants to avoid an oil curse. The level of brutality, although not as high as Nigeria’s early days in the discovery of oil, still calls for concern. The high levels of corruption in the court system combined with its

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312 Ayeetey and Udry, *Creating Property Rights*, 1


315 2013 Index of Economic Freedom, *Heritage Foundation*

316 2013 Index of Economic Freedom, *Heritage Foundation*
slowness and biased towards the powerful in society are also damaging. Although, unlike Nigeria, the voice of the people seems to be shaping some of the contractual nature of oil agreements, there are still some secrecy issues surrounding the process and its implementation. Such practice could leave the country with bad contracts, just like Nigeria, only serving the interest of the powerful elites. Historically, Ghana has not been that different from Nigeria in this context, especially in the 1960’s through the 80’s, yet if avoiding an oil curse is the priority of the government, then it must look to ensuring a system that is fair, just and open.

**Effective Governance**

Neo Boon Siong of the National University of Singapore argues that effective governance should be seen this way;

> As environments change, good governance demands the ability to rejuvenate and renew principles, policies and practices. Careful planning is not a substitute for developing the capabilities to learn, innovate and adapt when the environment becomes volatile and unpredictable. Therefore organizations need to have the capabilities to learn and innovate: to develop and tap new ideas, develop fresh perceptions; undertake quick action and continual upgrading to achieve flexible adaptation. In short, they need to have dynamic organizational capabilities.\(^{317}\)

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\(^{317}\) Neo Boon Siong, “Strategic Thinking and Dynamic Governance.” *National University of Singapore, Lee Kuan Yew School of Public Policy*.  
In analyzing the nature of Ghana’s governance, I will apply a similar analytical lens as employed under the case of Nigeria. That is, a focus on public/civil service and policy formulation and implementation.

Public/Civil Service

Ghana’s public service according to chapter fourteen of the 1992 constitution states that it shall include; the Civil Service, the Judicial Service, the Audit Service, the Education Service, the Prisons Service, the Parliamentary Service, the Health Service, the Statistical Service, the National Fire Service, the Customs, Excise and Preventive Service, the Internal Revenue Service, the Police Service, the Immigration Service and the Legal Service, public corporations other than those set up as commercial ventures, public services established by this Constitution, and such other public services as Parliament may by law prescribe. According to Stephen Adei and Yaw Boachie-Danquah, “the Ghanaian Civil Service has had a chequered history. From a high pedestal of being described as one of the finest and brightest in the Commonwealth, the Service had, by the early 1980s, degenerated into a reactive, corrupt and visionless one.” Such a claim is further supported by Joseph R. A. Ayee, who also cites that the civil service has being described as “‘the finest, most relevant and performance-oriented institution in Africa’ and as ‘a moribund, paper-pushing institution.’” Aryee writes the years from

1957 to the mid-1970’s were essentially the good days of the civil service, while the bad
days began in 1974 to the early part of the 1980’s.\textsuperscript{321} Explaining the reason for such
deterioration, Adei and Boachie-Danquah assert that “political instability, bad
governance, economic decline and the politicization of the civil service” contributed to
it.\textsuperscript{322} A similar claim is also made by Ayee.\textsuperscript{323}

To mitigate some of the problems in the civil service, the military-led government
of the PNDC pursued a Civil Service Reform Program (CSRP) between 1987 and 1993
with the support of the IMF through its Structural Adjustment Program (SAP).\textsuperscript{324}
According to Adei and Boachie-Danquah, the reform included some of the following
interventions: “the introduction of a new performance appraisal system based on
objective and target setting”; “a merit rather than a length of service based promotion
system”; “the re-enactment of the Civil Service Law of 1993 after a revision of the old
law”; and “the establishment of an Income Policy and associated financial pay
rationalization schemes.”\textsuperscript{325} However, Adei and Boachie-Danquah argue that there were
some shortcomings to this reform, including the fact that “the program was crafted as a
technical instrument by ‘consultants’ and mission experts and imposed top-down with
little local participation and ownership”, “the program lacked an effective machinery to
ensure evaluation and follow-up actions”, and also “the Office of the Head of Civil
Service was the main focus of the reform enterprise rather than the Civil Service as a

\begin{footnotesize}
\begin{enumerate}
\item p. 72
\item p. 75
\item p. 76
\item p. 77
\item p. 78
\end{enumerate}
\end{footnotesize}
whole.” Prior to the CSRP, Ayee indicates that similar attempts had being made in the past, including the Mill-Odoi Commission (1967), which was meant to look at the structure and remuneration of the public service, and the Okoh Commission (1974), which was also to look into the structure and procedure of the civil service.\footnote{Ibid., 13} From Ayee’s point of view, these two commissions provided recommendations that were similar, that is:

(i) Ministerial organizations should be restructured to concentrate on sector policy planning, co-ordination, monitoring and evaluation functions of government and be divested of implementation activities; and

(ii) Responsibilities for the implementation of government approved programs be given to decentralized implementation agencies reporting to their political heads of the regional organizations.\footnote{Ibid., 4}

These recommendations were however not implemented.\footnote{Ibid., 5} In 1995, there was the Civil Service Performance Improvement Program (CSPIP), which Adei and Boachie-Danquah assert “evolved to plug the loopholes and critical gaps identified in the conceptualization of the CSRP.”\footnote{Adei and Boachie-Danquah, The Civil Service Performance, 13} The CSPIP was a major part of a program called the National Institutional Renewal Program (NIRP). Ayee describes that the program was aimed at encouraging “institutions under the executive, legislative and judicial arms of government, as well as autonomous institutions listed under the 1992 Constitution, to discharge their functions in a transparent, competent, accountable and cost effective
fashion.” Some of the achievement of the CSPIP program by 2000 included; 
“facilitation of the formation of Capacity Development Teams (CDTs) in 192 
organizations (21 Ministries, 54 Departments and Agencies, 10 Regional Coordinating 
Councils, 105 District Assemblies),” and “20 organizations out of the 22 had begun 
implementing their Performance Improvement Plans (10 Ministries, 4 Departments and 
Agencies, 3 Regional Coordinating Councils and 3 District Assemblies).” In 2010, the 
acting head of the Ghana Civil Service indicated that the service will be strengthened to 
help ensure that the country’s desire of reaching a middle income country is realized in 
2015 and will encourage “continuous training for civil and public servants to help 
improve service delivery in the government’s…”

Policy Formulation and Implementation

One successful policy that helped Ghana regain its strength in the cocoa industry 
was the Economic Recovery Program (ERP) in 1983. This program was said to have 
included:

A special program to revive the cocoa sector (the Cocoa Rehabilitation 
Project). The policy changes included increasing the farm gate prices paid 
to Ghanaian farmers relative to that paid in neighboring countries (which 
minimized the incentive to smuggle), and a devaluation of currency which 
reduced the size of the implicit taxation of farmers.

331 Aryee, Civil Service Reform in Ghana, 25
332 Ibid., 29
333 Ghana’s Civil Service to be Revitalized, Government of Ghana, October 9, 2010. 
revitalised (accessed January 6, 2013)
334 Ghana’s Civil Service to be Revitalized, Government of Ghana
335 Kolavalli and Vigneri, 2011, Cocoa, 204
According to Kolavalli and Vigneri, it was this program that essentially led to the recovery and second expansion of Ghana’s cocoa industry from 1983-2008. They cite that:

Growth in cocoa production became more pronounced starting in 2001, possibly driven by a combination of record-high world prices, increased share being passed onto farmers, and a set of interventions rolled out by the Cocobod to improve farming practices: mass spraying programs and high-tech subsidy packages to promote the adoption of higher and more frequent applications of fertilizer. 336

The process of policy making in Ghana is a complex one, and as the Friedrich Ebert Foundation’s report on Ghana indicate, “The constitution is not so easy to understand as would be expected.” 337 The Foundation also describes Ghana’s legislative making process as characterized by the “crystallization of ideas,” essentially implying that “people involved in the lawmaking process put a lot of thoughts and effort into ideas before they are even presented to others.” 338 Transparency of the process has always been a bigger problem for the country. In fact, Thomas Kastning writes that “the current lack of transparency in Ghana’s oil policy envisages in the refusal of the Government to publish the contracts that were signed with the companies involved in the oil production.” 339 Kastning further claims that the Petroleum Revenue Management Bill

336 Ibid., 204
338 The Law-making Process in Ghana: Structure and Procedures, Friedrich Ebert Foundation. 9
that was proposed in 2010 “does not provide a detailed plan that shows which sectors/ministries will profit most from the revenue.”^340 He states that even more important was the fact that the proposed bill had been sitting in parliament for almost a year.\(^341\) The Petroleum Revenue Management act which was eventually passed by parliament and assented to by the President is to “to provide the framework for the collection, allocation and management of petroleum revenue in a responsible, transparent and accountable manner for the benefit of the citizens of Ghana in accordance with Article 36 of the Constitution and for related matters.”^342

There is definitely some strength to Ghana’s level of policy making implementation. Its ability to demonstrate with the cocoa sector, that it can rise from bad policies to making and implementing effective ones could perhaps indicate some lessons learned. However, the problem of transparency is still a challenging one, and as I previously indicated under the analysis of the country’s rule of law, if care is not taken in ensuring collaboration with civil society, the opportunity for the political elites to enrich themselves with narrow short sighted policies could rise. Public engagement in the policy making process is certainly key, and as the civil society was able to pressure the government to reconsider the role of the GNPC in issuing licenses, it indicates that a well-informed public could make the process and its outcome effective in elevating the country’s potential to achieving a resource blessing.

341 Thomas Kastning, Basic Overview of Ghana’s Emerging Oil Industry, 17
342 Ibid., 17
http://ghanaoilinfo.com/uploadeddoc/0fe7b35b40f440e6c13c8b5b6a783dddPetroleum%20Revenue%20Management%20Bill%202010.pdf (accessed January 6, 2013)
Openness and Accountability

The question of what makes democracy work, according to Meg Patrick Haist, has been argued for a long time. Citing Robert Putnam, she indicates that although there were some inconsistencies in his conceptualization of “civic engagement”, he attempted to demonstrate that “varying levels of ‘civic engagement’ among the citizenry… contributed to both successful economic development and effective governance in the new polities.”\(^{343}\) Also Michael Schuman in his article, *Is democracy necessary for economic success?* argues that although one of the strongest challenges to democracy is as a result of China’s rise as one of the fastest growing economies, a country that is undemocratic, it is still true that:

In order to be innovative, you need full access to information, a confidence to speak your mind and a willingness to take risks. Fear caused by political control doesn’t foster an atmosphere conducive to free thinking. Censorship and limitations on information curtail the knowledge and debate necessary for the generation of new ideas.\(^{344}\)

In this section I will examine whether Ghana has an open and accountable environment through the lenses of participative democracy and freedom of the media.

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Participative Democracy

As the background to the study on Ghana indicates, it was not until 1992 that the military-led government of Rawlings under pressure from the international and domestic community gave in to a democratic regime in the country (becoming the fourth republic). It has successfully had multi-party elections since then, including 1996, 2000, 2004, 2008 and 2012.345 As Abdul-Gafaru Abdulai writes;

The peaceful transfer of power from the government of the National Democratic Congress (NDC) to the New Patriotic Party (NPP) following national elections in December 2000 clearly demonstrates how far Ghana has travelled along the path towards democratic consolidation over the past decade.346

One thing that has been described as impressive was the immediate swearing in of Vice President John Mahama (now President) without any incident after the death of President John Atta Mills.347 According to a 2011 report by USAID, “Ghana rates highly on most basic measures of democracy….”348 The report however indicates that “effective participation in the making and implementation of public policy has been limited to a small political elite which has succeeded in capturing the presidency, albeit through fairly

competitive elections….”\(^{349}\) The report further identifies other problems, including addressing issues related to “administrative accountability and effectiveness,” and the “overwhelming dominance of the executive branch in Ghanaian politics and its control of public resources.”\(^ {350}\) The report argues there tends to be a lack of “accountability, transparency, responsiveness, and informational openness” at that level of government.\(^ {351}\) The report also laid out a fundamental problem that was realized in the 2012 elections. It described Ghana’s electioneering atmosphere as “increasingly hyper-aggressive” and that its “winner-take-all nature….puts tremendous pressure on the one institution that has become a symbol of the country’s successful democratic institution, the Electoral Commission (EC).”\(^ {352}\)

The 2012 elections, although declared free and fair by many observers were still marred by a series of high tension moments. After the electoral commission declared the results, indicating the incumbent party, the NDC had won, the opposition party, NPP claimed that the electoral workers tampered with the results and has taken the case to the Supreme Court to seek a nullification of the results.\(^ {353}\) Although such events might have created high tensions, the good thing is that the country did not erupt into a war. Rather, the legal framework established to oversee grievances related to the elections is being used by the opposition. There have been previous incidences in past elections, including

\(^{349}\) Ghana Democracy and Governance Assessment, Final Report, USAID-GHANA, 1
\(^{350}\) Ibid., 2
\(^{351}\) Ibid., 2
\(^{352}\) Ibid., 1
the boycotting of elections by the opposition in the 1992 parliamentary election.\textsuperscript{354} However, as the discussion paper by AfriMap \textit{et al.}, indicate, “one of its most successful innovations, responding to the boycott of the 1992 parliamentary elections by opposition political parties which had disputed the presidential election results, was the creation of the informal and non-statutory Inter-Party Advisory Committee (IPAC).”\textsuperscript{355} The discussion paper further describes that with improvements made to the codes provided and adopted by the body, it “has been an effective means of checking abuse of process by political parties - but it is weakened by its lack of legal force and of binding enforcement mechanisms.”\textsuperscript{356}

\textit{Freedom of the Media}

Jonathan Temin and Daniel A. Smith writes,

Ghana has a chequered past with respect to press freedom. Only recently has the country shed the ‘culture of silence’ that dominated the 1980’s under the Provisional National Defense Council (PNDC) regime. Due to the authoritarian control of the media (private and state-owned, although there were hardly any private media) by the PNDC government during the 1980’s, press freedom was slow to materialize during campaigning for the 1992 presidential and parliamentary elections…\textsuperscript{357}

\textsuperscript{355} AfriMap & OSISA, \textit{Ghana: Democracy}, 1
\textsuperscript{356} Ibid., 1
Temin and Smith further indicate that when the PNDC government repealed a repressive 1985 law that essentially required “anyone wanting to publish a newspaper or magazine to obtain a license from the Secretary for Information,” almost three dozen independent privately owned newspapers popped up in the country, many critical of the NDC, which was a successor of the PNDC.\textsuperscript{358}

The 1992 Constitution of the Republic of Ghana guarantees the freedom and independence of the media, stating that “there shall be no impediments to the establishment of private press or media; and in particular, there shall be no law requiring any person to obtain a license as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information.”\textsuperscript{359} The 2011 freedom of the press report by Freedom House indicated that generally freedom of the press is healthy in the country.\textsuperscript{360} It further summarized the press freedom and its history in Ghana with the following:

Freedom of the press is legally guaranteed, and the government generally respects this right in practice. Ghana’s criminal libel and sedition laws were repealed in 2001, but Section 208 of the 1960 Criminal Code, which bans “publishing false news with intent to cause fear or harm to the public or to disturb the public peace,” remains on the books. In the past, former public officials and private citizens have brought a spate of civil libel

\textsuperscript{358} Ibid., 588
cases seeking crippling amounts in damages from media outlets, encouraging self-censorship.\textsuperscript{361}

An example of such crippling amounts was a defamation claim that was brought against publishers of the Daily Graphic and Daily Democratic newspapers in May 2009, by a former Minister.\textsuperscript{362} Freedom House reports that they “faced potential payments amounting to $207,000…. However, in February 2010, courts dismissed years-old defamation suits brought against the Daily Guide and the Daily Dispatch by a member of parliament and a paramount chief, respectively.”\textsuperscript{363} The Criminal Libel law used in some of these cases has been on the books since the colonial era.\textsuperscript{364} The U.S Department of State 2010 country report on Ghana also indicated some arbitrary arrest of journalists.\textsuperscript{365} There are also situations in which vocal journalists have claimed to have received “anonymous threats and phone calls, secret railing, character assassination and stifling of business.”\textsuperscript{366} The country, according to AfriMap et al., does not do well when it comes to providing accessibility to “official information for civil society organizations, journalist, or ordinary citizens.”\textsuperscript{367} Ghana has however passed a Right to Information Bill, which was proposed in 2003, but because of heavy criticism, it was resubmitted in 2005.\textsuperscript{368} The

\textsuperscript{361} Freedom of the Press: Ghana 2011, \textit{Freedom House}
\textsuperscript{362} Ibid.
\textsuperscript{363} Ibid.
\textsuperscript{364} Temin and Smith, \textit{Media Matters}, 588
\textsuperscript{366} AfriMap & OSISA, \textit{Ghana: Democracy}, 1
\textsuperscript{367} Ibid., 6
\textsuperscript{368} Ibid., 6
bill still sits before the parliament and there are several claims to the effect of it being a bad bill.\textsuperscript{369}

Although freedom of the press is guaranteed and generally journalists are allowed to have access to various government documents, there are still some suppression as some journalists are arrested arbitrarily and face law suits for criticizing politicians. Some also do receive threats because they are vocal against a particular politician or administration, which is usually uncommon in a democratic society, such as the United States, where journalists are threatened by anonymous people. The difference that exist lies in the efficiency of the judiciary and security service of these countries compared to Ghana, where their institutions are mainly corrupt and serving of the powerful political elite, thereby making them unreliable to protect such journalists.

**Assessment of Ghana’s Institutional Environment**

There is no doubt Ghana has generally improved in many areas of its performance when it comes to rule of law, governance and openness and accountability. Like Nigeria, it has had a terrible history of suppression, human rights abuse and a political system that is serving of the few political elites. In this section, unlike the Nigeria case study, I will focus on the current nature of Ghana’s institutions, allowing me to assess the direction to which the country is heading.

Rule of Law

Legend for curse resistance/receptive scale

- Very Strong, High/ Most Curse resistant
- Strong, High/ More curse resistant
- Fairly Strong, High/ Fairly Curse resistant
- Fairly Weak, Low/ Fairly curse receptive
- Weak, Low/ More curse receptive
- Very Weak, Low/ Most Curse receptive

<table>
<thead>
<tr>
<th>CURSE RESISTANT</th>
<th>CURSE RECEPTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairly strong contracts and enforcement</td>
<td>Low confidence in courts and police</td>
</tr>
<tr>
<td>Fairly weak property and fundamental rights</td>
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Figure 10: Ghana: Rule of Law- Curse resistant and receptive scale

Rule of law in Ghana’s case could be described as generally fairly weak. There are certainly obvious improvements in having good agreements; however the process is still mired in some secrecy and several corrupt practices by political leaders. The level of confidence in the police service and courts is not that encouraging as corruption, tardiness and some forms of brutality are reportedly going on. Like Nigeria, although not so much extreme, these institutions tend to serve the interest of the rich and powerful than the interest of the average citizen. Property and fundamental rights are still weak. It is important however to indicate that it is far better compared to the 70’s or 80’s. People’s rights are generally guaranteed by the law, yet there are still several cases of human rights abuse, as illegal detention and unfair trials persist.
Effective Governance

Figure 1: Ghana: Effective Governance - Curse resistant and receptive scale

Governance based on the indicators used in this paper is generally mixed as policy formulation does demonstrate some level of strength but lacks transparency. Civil society is routinely engaged in the process, but not at the level of engagement needed to do away with some of the secrecy that opens up the opportunity for corrupt officials to adopt policies that are short-term and beneficial to their political interest. The public service is fairly weak as the country still struggles to make it effective in performing necessary services. Programs adopted to mitigate the various weaknesses, has not transformed the civil service, although some successes has been realized. One can argue that Perhaps, it is because these programs have not been fully implemented. I must note
there are still high levels of corruption and political allegiance. Nepotism is still prevalent in the civil service, instead of a more merit based approach.

*Openness and Accountability*

**Legend for curse resistance/receptive scale**

- Very Strong, High/ Most Curse resistant
- Strong, High/ More curse resistant
- Fairly Strong, High/ Fairly Curse resistant
- Fairly Weak, Low/ Fairly curse receptive
- Weak, Low/ More curse receptive
- Very Weak, Low/ Most Curse receptive

![Curse Resistance/Receptive Scale](image)

*Figure 12: Ghana - Openness and Accountability - Curse resistant and receptive scale*

Many use Ghana as an example for other countries to emulate due to its ability to successfully maintain a fairly participative democratic society. It is certainly true that the country has managed to grow and continue to grow its participative democracy; however, there are still several challenges to which the country must overcome, as every electoral cycle brings fear of violence or conflict. There are still issues related to the fairness of the process and also the system required to win elections in the country. Although that is non-unique, they still create an atmosphere that places the country in vulnerability every
election cycle. Freedom of the media is generally allowed, however, the detention and attack on journalists and the lack of a Right to Information Bill makes it fairly weak.

Conversely, Ghana’s institutional environment seems more nuanced. As shown in Figure 13, a visual impression of the scale depicts a precarious balance.

In this case, if care is not taken, the possibility of moving towards a fairly curse receptive institutional environment is high, since there is a fairly weak rule of law that could tip it that way. However, if much more openness and accountability is encouraged, and corruption is reduced, together with ensuring that property rights and fundamental rights are protected, then the country can have an institutional environment that is fairly curse resistant.
Underlying Causes of Ghana’s Mediocre Institutional Environment

The underlying causes of Ghana’s institutional environment can also be traced to the influence of colonization. Colonial era laws, as evident by the Criminal Libel Law and the character of the police service demonstrate how the legacy of colonialism is still affecting the country. As already indicated under the analysis of Ghana’s courts and police, it is clear that the attributes of the police as being primarily controlled by the political class is still obvious today.370 As Atuguba argued, “it is still used to protect the propertied class and the political class.”371 Efforts to drive the nation from such negative influence were hampered by rampant military interruptions in the civilian rule of the nation, which resulted in many human rights abuses as well as stagnancy in its development.

Ghana certainly has had its share of political instability. Until the 1990’s, Ghana like Nigeria was in a state of political instability as military officers accused civilian leaders of corrupt practices, thereby overthrowing them through a coup and installing a military dictatorship. Such events had a great of impact on the country’s ability to embrace participative democracy, protect rights and establish a society built on rule of law. Although things have changed since the 1990’s, it is still accurate to mention the impact of such an unstable era on the country’s current institutional environment.

370 Atuguba, Police Oversight in Ghana, 18
371 Ibid., 18
Ghana: The Time Effect Analysis

Ghana is currently in its take-off stage in terms of its institutional relationship to the discovery and production of oil (see Appendix II). The institutional environment depicts a susceptibility to curse receptiveness, although more nuanced. I argue so because of a fairly weak rule of law institutional environment, which if not addressed could go a long way to tip the balance in such direction. As the boom and bust periods emerge, the tendency to have curse resistant institutions will depend on how committed the country is in dealing with institutional excesses. Like Nigeria, the hope for a resource blessed Ghana has been expressed by scholars and international donors in this early stage. In fact, in 2011, Ekow Dontoh citing the World Bank indicated that Ghana’s economy might grow by 20% due to the addition of oil exports. It is not impossible, but at this stage (take-off), as provided in the time effect analysis (see Appendix II), even curse receptive institutions can still achieve some level of blessing. It is not until the critical periods, the boom and bust that these institutions are put to the test and their true nature is revealed.

Ghana: Interplay of Indicators

The interplay of indicators, just as in the Nigeria case shows the relationship between Ghana’s institutional indicators. Figure 14 shows the negative relationship that exist between the components of rule of law and openness and accountability in Ghana.

In this case, where there is a fairly weak rule of law, there is certainly the tendency of having a mediocre openness and accountability, and the same is true for the opposite. Due to a fairly low freedom of the media as well as low confidence in the courts and police service, contracts are generally fairly weak, because at the moment, the role of civil society has been able to achieve some success in making some changes to oil related law and agreements, as evident in the changing of the role of the GNPC within the MPA. This means that the more freedom is allowed for the media and civil society to engage the government in the process, the greater chance there is in ensuring stronger contracts and enforcement. The same goes to the role that a fairly strong participative democracy and respect for property and fundamental rights plays.
Figure 15 also shows the relationship between a fairly weak rule of law and a mediocre government. Just like Figure 14, it is important to note that, these factors influence one another, and as such, although there can be a fairly weak impact of public/civil service on policy formulation and implementation, the ability of other factors such as a fairly strong participative democracy (see Figure 16) can generate a fairly strong policy formulation and implementation institutional environment. Also as seen in Figure 15, one can clearly see how a fairly strong policy formulation and implementation has a positive impact on contracts, and a fairly weak public/civil service also has a negative impact on contracts. This reveals the mediocre aspects in the system. If positive factors begin to emerge, the impact as shown in this case could be a much better outcome, generating a more curse resistant environment.
Just like Figure 14 and 15, the illustration above shows how a mediocre level of government produces a mediocre level of openness and accountability (same is true for the opposite). The interplay of the various factors shows a positive impact of participative democracy on public/civil service, however, due fairly less freedom of the media, the outcome is a fairly weak public/civil service. We also see a similar impact on policy formulation and implementation, where the result is fairly strong although there is a negative impact from fairly less freedom of the media and weak public/civil service. This is so because, where there is a participative democracy, some level of accountability emerges, since legislators can be voted out if they commit to bad policies. However, it can be stronger if the media is allowed more freedom to report on legislators and their policy alignments.
To conclude, Ghana’s institutional situation is mediocre but very much susceptible to curse receptiveness. It has certainly had two decades of gradual improvements compared to the early years of post-independence; however there still exist remnants of human rights abuse, lack of transparency and corruption at all levels of government.
Chapter 5

THE LESSONS AND RECOMMENDATIONS

A side by side comparison of Ghana’s current institutional environment to Nigeria’s (in historical context) reveals a vast difference between the two, although not in terms of susceptibility.

Figure 17: Ghana/Nigeria Comparison: Curse resistant and receptive scale
It is not in terms of susceptibility because, Nigeria, was similarly prone to curse receptiveness from the very beginning. Ghana, although not as high as that of Nigeria, is still relatively prone to curse receptiveness. The disadvantage to Nigeria was that it had just discovered oil in large quantities when it attained independence from the British. It did not have the time and benefit that Ghana has had. Ghana stands at a greater advantage than Nigeria, both in institutional development and also having experienced other resources, such as gold and cocoa. Ghana, as described in the background is the second largest producer of cocoa in the world and a big exporter of gold. Its heavily reliance on these commodities have not necessarily brought prosperity to the nation, as it still remains a low-income country. With the ERP that began in the 1980’s, greater expansion and realization of economic growth has been achieved, especially in the cocoa sector. An International Monetary Fund (IMF) 2010 online survey indicates that both cocoa and gold helped Ghana weather the global economic crisis.\(^{373}\) The addition of oil is then hopefully expected to generate more growth in the economy if that is the case. However, many have argued that oil is presumably different in terms of the risk it poses to a country. Oyefusi, although argues the relationship between oil and conflict, cites that “of all natural resources, oil has been found to have the highest risk of civil conflict because of the large rents it offers and the shocks to which the government and the national economy are exposed.”\(^{374}\) The International Energy Agency (IEA) offers the following assessment to why oil is such a unique commodity:


\(^{374}\) Oyefusi, *Oil-dependence*, 2
Energy commodity markets are complex, dynamic and increasingly
global. Their impact on the economy from national to international levels
is enormous which makes it important to follow and understand current
trends, as well as likely future changes. Major shifts in supply and
demand, notably the growing demand for fossil fuels in developing and
emerging economies, require sound analyses to ensure reliability and
security of supply. This particularly applies to oil and gas which are
subject to sudden supply disruptions and price volatility.375

So, although oil has a relative bigger impact on the stability of a country, whether
politically, socially or economically than gold or cocoa, one can still argue that, to benefit
immensely from any natural resource, there must be institutions that have the capacity to
manage them. In the case of Ghana, having experienced the challenges of managing gold
and cocoa can produce some other lessons to help avoid a resource curse in addition to
the lessons from Nigeria. In other sense, this thesis is not arguing entirely that Ghana
must only look to what happened to Nigeria, rather I am noting that learning from
Nigeria’s mistakes is not sufficient, but also, Ghana can look to some of its own
experience with other natural resources to help avoid a resource curse.

*Seven Key Lessons and recommendations*

The following lessons and recommendations have been developed from the
components of the indicators (rule of law, effective governance and openness and
accountability) used in examining the case studies. They summarize what should be done
in Ghana to build an institutional environment that is more curse resistant.

375 Energy Commodity Markets, IEA,
http://www.iea.org/training/trainingthemesandmodules/energycommoditymarkets/
(accessed January 10, 2013).
Lesson 1: Open and Civilly Engaged Contracts

Perhaps nothing is more crucial in this context than ensuring that better contracts are made and implemented openly and accountably. In the case of Nigeria, the country went through several different types of contracts, each having its strengths and weakness. A process that contributed to their inability to create a contract that was fair and balance to the country and foreign oil companies. As I earlier cited Panford, Ghana is using more of a hybrid, containing elements of concessions and JV. In my opinion, it is fairly too early to determine what the outcome of such hybrid contract will be. However, one thing that is certain is that whatever contract is used, the process should be open and must engage civil society.

Lesson 2: Embracing an Independent and Trustworthy Judicial System

The lack of independent and trustworthy courts and police bolstered the ability of Nigeria’s political class to steal profits from oil revenues and abuse the system and the citizens. In Nigeria, corruption, which was found at every level of its institutions, contributed to its demise as a resource cursed nation. The elite class was pretty much the untouchables, and their network of influence at every level of government, allowed them to amass the benefits from the oil industry to themselves, leaving the average Nigerian in the cycle of poverty.

Panford, The Crucial Roles of Ghana’s Petroleum Agreement, 82
Lesson 3: A Better Property Rights Regime and Respect for Human Rights

The brutal force of the police, the inability of the court to ensure the protection of civilian rights, and the lack of a better property rights regime, all contributed to Nigeria’s demise as a resource cursed nation. Allowing for people to speak their minds and question authority as well as granting them the right to property can boost innovation and attract a lot of investments into the country. In Nigeria, lands were taken away from families to be used for oil exploration without compensation, exacerbating civil conflicts.

Lesson 4: Improving the Public/Civil Service and Ensuring its Autonomy

Nigeria’s civil service was filled with people who held allegiance to the political class. It encouraged nepotism and ethnic bias, allowing for the political class to bolster their political control and corrupt practices. The service was also not result oriented, with less productivity. For Ghana, there are similar characteristics, and it will serve the nation better to improve the situation by establishing an effective merit system, and create the incentives that reward good behavior and punish bad behavior. In this regard, an effective independent judiciary is needed.

Lesson 5: Credible Policies with Long-Term Goals that seeks the National Interest

Policies should not be based on what is politically expedient as in the Nigerian case. The government should also encourage more transparency in the process, allowing input from those outside of the branches of government, in this case civil society and international donors. Such process can avoid situations like Nigeria where corrupt officials saw it expedient to make policies that were bad for the nation in order to simply gain
political advantage during oil bust periods. Such practices, contributed to the country’s huge external debts and economic decline.

**Lesson 6: Continue to Strengthen Participative Democracy**

Nigeria certainly did not have much history with a credible participatory democracy. The result was the installation of corrupt civilian leaders and brutal military leaders. Ghana has had the opportunity to exhibit some strength in this area; however, more still needs to be done to calm down the political tension that always surrounds election cycles.

**Lesson 7: Encourage Media Participation in Governance**

The suppression of the media in the Nigerian case also contributed to the lack of openness and accountability in the country. Political and military leaders who were criticized for their actions essentially use the police to attack the media and further pass laws to ban freedom of the press. Ghana still has a long way to go in this area, as there are still pockets of harassment of media personal for trying to report on government officials and activities. It is also in the interest of the nation for parliament to pass the Right to Information Bill to enable the media inform the public on what their government is doing. It can help curtail corruption in the system.

In summary, Ghana must not only dream of a better future because oil has been found, but it must recognize that such dream comes at a cost; one that demands action at all levels of government and ensures productivity, accountability and supports long-term growth. Sanjeev K. Sobhee like many other scholars admits that “better institutions contribute to higher economic growth.” He further states that “it makes sense to actually
better improve the quality of institutions…,” so that it can be effective in the service it provides.\textsuperscript{377} For Ghana, the next few decades are more crucial than ever before. The production and export of oil is not a curse in itself, but the institutions in place can make it a curse or a blessing. Having curse resistant institutions means strong institutions that can withstand both the booms and the busts. The nation needs to strengthen its rule of law and the government needs to establish an open and accountable form of governance to build upon its effectiveness. There are many examples of resource blessed and resource cursed nations that can serve as a yardstick of what to do and not do. For now, Ghana is relatively susceptible to the resource curse with such mediocre institutional environment. Hopefully, the nation’s leaders, civil society, and international donors can work together to address some of the existing weaknesses in Ghana’s institutions, so as to make them more curse resistant to help avoid a resource curse scenario in the coming years.

APPENDIX I

THE FRAMEWORK OF ANALYSIS

The framework for analysis in this study is mounted under the concept of governance, which is described by the World Bank’s WGI as consisting of the “Traditions and institutions by which authority in a country is exercised.” It also determines that governance:

- Includes the process by which governments are selected, monitored and replaced;
- The capacity of the government to effectively formulate and implement sound policies;
- And the respect of citizens and the state for the institutions that govern economic and social interactions among them.

The definition represents much of the indicators adopted in this study. It is important to know that most of the underlying factors to these indicators are inter-related and sometimes dependent on each other.

Rule of Law

The WJP asserts that rule of law is a key factor in determining a prosperous and fair society. It also describes such an environment as providing justice for all and protecting fundamental rights. The WGI also share similar understanding, describing

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379 World Governance indicators, World Bank
381 World Justice Project, Rule of Law Index
rule of law as capturing various concepts, like the quality of contract enforcement, property rights, and the confidence in courts and the police.\textsuperscript{382}

*Contract Enforcement* identifies the process by which contracts are awarded and implemented. In this case the level of clarity in contracts between extractive companies and government.\textsuperscript{383}

*Confidence in Courts and Police* looks at how grievances are redressed and actions are taken against individuals or firms who commit offenses against society.\textsuperscript{384} Confidence in courts and the police will demonstrate the ability to investigate and adjudicate “criminal offences effectively, impartially, and without improper influence, while ensuring that the rights of suspects and victims are protected.”\textsuperscript{385} The independence of the courts and police system is very critical.

*Property and Fundamental rights* describes the degree to which a government ensures the rights of its people to private property ownership and be treated equally under the law without discrimination.\textsuperscript{386} It must also reflect the ability of a nation to ensure the right to life and security of the person, due process, freedom of association, belief and religion,

\textsuperscript{382} World Governance indicators, *World Bank*
\textsuperscript{383} “From Deals to Development,” *World Bank Institute.*
\textsuperscript{384} “Effective Criminal Justice,” *World Justice Project.*
\textsuperscript{385} Effective Criminal Justice, *World Justice Project*
\textsuperscript{386} “Fundamental Rights,” *World Justice Project,*
opinion and expression and others embodied in the Universal declaration of human rights.\textsuperscript{387}

**Effective Governance**

The WGI describes this as capturing “the perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.”\textsuperscript{388}

*Quality of public and civil services* looks at the nature of bureaucracy, whether it is excessive or not and also examines the level of satisfaction attributed to it. It also describes the effectiveness of revenue mobilization and distribution.\textsuperscript{389}

*Policy formulation and Implementation* describes the consistency and forward planning of the government, whether there is a change in leadership or not.\textsuperscript{390} Also looks at how government regulations are enforced without unnecessary meddling of private or political influences.\textsuperscript{391}

**Openness and Accountability**

*Participative democracy* looks for the presence of citizens to freely participate in the “political process including the right to vote freely for distinct alternatives in legitimate

\textsuperscript{387} Fundamental Rights, *World Justice Project*

\textsuperscript{388} World Governance Indicators, *World Bank*

\textsuperscript{389} World Governance Indicators, *World Bank*

\textsuperscript{390} World Governance Indicators, *World Bank*

\textsuperscript{391}“Effective Regulatory Enforcement,” *World Justice Project.*

elections, compete for public office, join political parties and organizations, and elect accountable representatives.” It also reflects on how well established the political system is and how the voices of those represented are heard in the political system.

*Freedom of the Media* considers the freedom of the press and the right of people to express their opinions without being harmed or threatened. It also examines to what extent speech is impeded by government actions. An open government allows for transparency and well publicized debate on issues without intimidating people.

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393 World Governance Indicators, *World Bank*
394 Ibid.
APPENDIX II

THE TIME EFFECT

In this paper, I claim time as an important factor in determining which direction institutions will move (curse resistant or curse receptive) in a resource abundant developing nation. That is, over a certain period (number of years), institutions in developing nations with abundant natural resources (using the institutional indicators provided in the framework in Appendix I), will either become more or less curse resistant or curse receptive. Initial susceptibility to either curse resistant or receptiveness, can effectively go a long way in determining the future outcome. This hypothesis, is therefore based on the assumption that institutions do not suddenly become weak or strong when resources are discovered or when production begins, rather they become evident as the years go by, and the country’s dependence on the natural resource also increases relative to other sectors of the economy. It must be noted, that the characteristics of institutions (see table 1 and Appendix I) in developing nations prior to natural resource discovery and production, have a continuous effect in the long run in a post-resource discovery and production. There are other basic assumptions to the time effect hypothesis I am proposing:

a. That a reasonable period of time will be in the increments of 10 years after the discovery of oil and production begins. The importance of this time frame reflects structuring oil agreements, lifting first production and exporting, putting together different legislations and revenues beginning to flow to the government.
b. That in the first 10 years, the weakness or strengths of institutions will not necessarily be realized, rather even weak institutions as Lewis writes “may provisionally achieve substantial economic growth.” This is based on the assumption that, revenues from the natural resource will not be huge in the first 10 years, rather in the subsequent decades.

c. That whether institutions become curse receptive or curse resistant, will be dependent on the evolving nature of indicators (see table 1) in the post-discovery and production of natural resources.

d. I also assume that the only important factor in this hypothesis is institutional quality.

e. That even in a resource bust, the trend will remain the same, whether curse resistant or receptive.

Figure 18: A hypothetical representation of curse resistant and receptive institutions in relation to time and the resource curse

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395 Lewis, Growing apart, 5
In figure 18, time is represented by $T$, where $T1$ is the point of discovery and production. As shown in the graph, between $T1$ and $T2$ (where $T2$ is $T1+10$), both curse resistant and curse receptive institutions exhibit the potential for a resource blessing. The period between $T1$ and $T3$ can be referred to as the *take-off*. At $T2$ (assuming this is the point where revenues from the natural resource begin to increase alongside production), curse resistant institutions tend to enable a nation to move slightly up into resource blessing, while curse receptive institutions enable a developing nation to narrowly slope down. Now, between $T2$ and $T3$ ($T2+10$), resource production and revenue continues to increase, inducing curse receptive institutions to slope a developing nation further downwards (although at the periphery of both resource blessing and curse), while curse resistant institutions shift a nation upward. $T3$ and $T4$ ($T3+10$) represents the *boom* period, where revenue from production gets to an all-time high and production also increases alongside. In this case, a curse resistant institution in a developing nation can slope upwards into resource blessing whiles a curse receptive will slope downwards into resource curse. As revenue and production enters into a *bust* (between $T4$ and $T5$ ($T4+10$)), that is revenue and production essentially slows and drops to low levels, a curse resistant institution will tend to keep a developing nation constant in resource blessing, while a curse receptive institution will continue to move a developing nation further into the resource curse. When revenue and production begin increase and stabilize, curse resistant institutions drive up developing nations further into resource blessing whiles the opposite is true for curse receptive institutions. A cycle of boom and bust can occur into the future producing similar effects if institutional changes are not made.
Figure 19: Nigeria: Major Events from 1956 to 2000

Appendix III
Compilation based on information from the following sources:
http://www.bbc.co.uk/news/world-africa-13434226

Figure 20: Ghana: Major Events Timeline, 1972-2012

Appendix IV


Activities: Exploration & Production, *GNPC*.


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http://ghanaoilinfo.com/uploadeddoc/b05dfb5bcc1631ad715c3148331e1b55ghan a_model_petroleum_agreement.pdf (accessed December 21, 20120).


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