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National oil companies and resource nationalism: a challenge for a petroleum resource-rich state.

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NATIONAL OIL COMPANIES AND RESOURCE NATIONALISM: A CHALLENGE FOR A PETROLEUM RESOURCE-RICH STATE

Azubike, V.C.

PhD 2020

NATIONAL OIL COMPANIES AND RESOURCE NATIONALISM: A CHALLENGE FOR A PETROLEUM RESOURCE-RICH STATE

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Declaration

I, Victor Chukwuka Azubike, hereby declare that the work on which this thesis is based is my original work (except where acknowledgements indicate otherwise) and that neither the whole work, nor any part of it has been, is being, or is to be submitted for another degree in this or any other university. I authorise the university to reproduce for research either the whole or any portion of the contents in any manner whatsoever.

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Dedication

This thesis is dedicated to the blessed and eternal memories of my ever-loving father Hon. (Prof) Justice Innocent Azubike Umezulike, OFR, FCIArb, FIIAN.

Acknowledgment

I would like to thank Almighty God for the opportunity to complete this PhD thesis. For the good health and strength to complete my write-up, I am eternally grateful. I owe immense gratitude to my father Hon. Justice Innocent Azubike Umezulike whose never ending support and counsel made this possible. Importantly, the urge not to disappoint you spurred me on. Sadly, you passed away in June 2018, before I could complete this work. I know you would have been very proud of this moment.

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Abstract

Debates on the relevance of national oil companies as a means for a state to adequately manage their petroleum resources has been put forward by some critics. Some critics argue that the traditional national oil company model is antiquated. At first, national oil companies were set up as agents of the governments primarily to exert control and ownership over the state's petroleum resources. Developed Western governments did this. Recently, NOCs in petroleum developing states set up in line with government regulations and policies seek to convert the petroleum resources into valuable benefits for the people. This has not been the case in recent times, as the average citizen of these states barely benefits from the exploitation of petroleum resources.

This research examined the theory of resource nationalism and the roles of NOCs in achieving government objectives. Further, the thesis examined the role of NOCs in the development of petroleum resources. NOCs have enormous potential to contribute to positive economic transformation in any country, especially countries that have an abundance of petroleum resources. Given the vast petroleum resources, economic development can be achieved provided that proper institutional and petroleum policy conditions are put in place.

This thesis further reviews the roles NOCs play in the global petroleum industry, and in particular in their domestic petroleum industry. Furthermore, the thesis argues that for a petroleum-rich developing state that establishes a NOC, the extent of involvement of the NOC in the development of petroleum resources matters. Some NOCs take the backseat when it comes to the actual production of the petroleum resources. Further, they have been turned into rent collectors, as they barely engage in the production of the petroleum resources. Again, should the exploitation of the petroleum resources be left in the hands of the international oil companies, or should the public sector, preferably the NOC play a leading role in the production of these petroleum resources?

Keywords: National Oil Companies, Resource Nationalism, Petroleum resource-rich state, Petroleum resources, Government, Resource Curse, Rentier State, Norway, Nigeria, Ownership and Control.

List of Abbreviations

AIPN	Association of International Petroleum Negotiators
AJNRLP	Australian Journal of Natural Resources Law and Policy
API	American Petroleum Institute
AGFA	Associated Gas–Framework Agreement
AJIL	American Journal of International Law
ANP	Agency for Petroleum, Natural Gas and Bio fuel
APERC	Asian Pacific Energy Research Centre
BNOC	British National Oil Company
BPC	Basrah Petroleum Company
CADA	Administrative Council for Economic Defence
CAMA	Companies and Allied Matters Act
CEPMLP	Centre for Energy, Petroleum and Mineral Law and Policy
CNPE	National Council on Energy Policy
CSR	Corporate Social Responsibility
CRINE	Cost Reduction in the New Era
CUP	Cambridge University Press
DECC	Department of Energy and Climate Change
DEN	Department of Energy
DFRRI	Department of Food Road and Rural Infrastructures
DGSO	Domestic Gas Supply Obligation
DSPRA	Downstream Petroleum Regulatory Agency
DTI	Department of Trade and Industry
ECN	Energy Commission of Nigeria
ECT	Energy Charter Treaty
EEA	European Economic Agreement
EGASPIN	Environmental Standard in Petroleum Industry in Nigeria
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
EMP	Environmental Management Plan
EP	Equator Principles
E&P	Exploration and Production
FPSO	Floating Production Storage and Offloading
FEPA	Federal Environmental Protection Agency
FSA	First Schedule to the Act
GDP	Gross Domestic Product
HSE	Health Safety and Environment
IEA	International Energy Agency
IELTR	International Energy Law and Taxation Review
IELR	International Energy Law Review
IMF	International Monetary Fund
IMO	International Maritime Organization
IOCs	International Oil Companies
JOA	Joint Operating Agreement
JVA	Joint Venture Agreements
JVC	Joint Venture Contracts
JWELB	Journal of World Energy Law and Business
LCA	Local Content Act
LFN	Laws of the Federation of Nigeria

LNG	Liquified Natural Gas
LUA	Land Use Act
LPG	Liquefied Petroleum Gas
MCL	Model Clause
MME	Ministry of Mines and Energy
MOCS	Multinational Oil Companies
MOSR	Mineral Oil (Safety) Regulations
MOU	Memorandum of Understanding
MPE	Ministry of Petroleum and Energy
MPR	Ministry of Petroleum Resources
NAOC	Nigerian Agip Oil Company
NAEE	Nigeria Association for Energy Economics
NAPIMS	National Petroleum Investment Management Services
NCDMB	Nigerian Content Development and Monitoring Board
NCE	National Council of Energy
NCS	Norwegian Continental Shelf
NDDC	Niger Delta Development Commission
NEEDS	National Economic Empowerment and Development Strategy
NEITI	National Extractive Industries Transparency Initiative
NLNG	Nigeria Liquefied Natural Gas Company
NNPC	Nigeria National Petroleum Corporations
NPAC	National Petroleum Assets Management Corporations
NPD	Norwegian Petroleum Directorate
NPDC	Nigerian Petroleum Development Company
NPV	NET Present Value
NRGI	Natural Resource Governance Institute
NRCs	National Resource Companies
NOC	National Oil Company
NOGP	National Oil and Gas Policy
NOSCP	National Oil Spill Contingency Plan
NSS	National Strategic Stock
OECD	Organization for Economic Co-operation and Development
OEL	Oil Exploratory Licences
OECD	Organisation of Economic Cooperation and Development
OFGEM	Office of Gas and Electricity Markets Authority
OGCB	Oil and Gas Content Development Board
OGEL	Oil, Gas & Energy Law Intelligence
OML	Oil Mining Lease
OPA	Oil Pipelines Act
OPEC	Organization of Petroleum Exporting Countries
OPL	Oil Prospecting Licences
OPLR	Oil Prospecting Licences (Conversion to Oil Mining Leases) Regulations
PDPR	Petroleum (Drilling Production) Regulations
PEL	Petroleum Exploratory Licences
PHCF	Petroleum Host Community Fund
PIB	Petroleum Industry Bill
PIGB	Petroleum Industry Governance Bill
PML	Petroleum Mining Lease
PPL	Petroleum Prospecting Licences
PPPRA	Petroleum Products Pricing Regulatory Agency
PRR	Petroleum Refining Regulation

PSA	Production Sharing Agreements
PSC	Production Sharing Contracts
PSO	Public Service Obligations
PTB	Petroleum Technical Bureau
PTDF	Petroleum Technology Development Fund
PWYP	Publish What You Pay
REMP	Renewable Energy Master Plan
RSLR	Rivers State Law Report
SD	Sustainable Development
SEC	Security and Exchange Commission
SPDC	Shell Petroleum and Development Company
SDFI	State Direct Financial Interest
SINEC	National System for Fuel Stock
SNEPO	Shell Nigeria Exploration and Production Company
SOEs	State Owned Enterprises
TRC	Texas Railroad Commission
TNOL	Transportation Network Operator Licence
UK	United Kingdom
UKCS	United Kingdom Continental Shelf
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNCLOS	United Nations Convention on Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Program
UNGA	United Nations General Assembly
UNFC	United Nations Framework Convention on Climate Change
WMD	Weapons of Mass Destruction

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CHAPTER ONE – INTRODUCTION

1.1 Introduction to the Research

Natural resources are nature's gifts to a country, and can be a source of social and economic development for the state, particularly concerning petroleum resources.[1] The ability to control the petroleum industry of a state depends on the level of competence, and control by the government, usually achieved with the support of its National Oil Company (NOC).[2] The regulatory framework of the industry generally reflects the government's mastery of the industry. Further, it is possible to have ownership but little or no control over the petroleum industry. The government, through its NOC, cannot effectively exert control over the oil and gas industry if it does not have the human capacity and technical knowledge, backed by robust legal framework and policies. NOC's can be the key to economic and social development in petroleum-rich states.[3]

Petroleum resources when properly managed can lead to economic development for the country in which these resources are discovered, (for example, Norway and some OPEC countries like Saudi Arabia, UAE and Kuwait). A robust petroleum

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[1] In this study, 'petroleum' resources is used to refer to 'oil and gas' resources. Petroleum resources are predominantly defined as all liquid and gaseous hydrocarbons existing in their natural state below ground, as well as the associated substances with hydrocarbon resources. See, 'Petroleum' (*Cambridge English Dictionary*, 2020) <https://dictionary.cambridge.org/dictionary/english/petroleum> accessed 26 May 2020; National Society, 'Petroleum' (*National Geographic Society*, 2020) <https://www.nationalgeographic.org/encyclopedia/petroleum/> accessed 26 May 2020 and Bernard Taverne, *Petroleum, Industry And Governments* (2nd edn, Wolters Kluwer 2013) 1 – 5. See also, 'Petroleum | Energy, Products, & Facts' (*Encyclopedia Britannica*, 2018) <https://www.britannica.com/science/petroleum> accessed 3 December 2018; 'Petroleum - Schlumberger Oilfield Glossary' (*Glossary.oilfield.slb.com*, 2018) <http://www.glossary.oilfield.slb.com/en/Terms/p/petroleum.aspx> accessed 3 May 2018; National Geographic Society, 'Petroleum' (*National Geographic Society*, 2018) <https://www.nationalgeographic.org/encyclopedia/petroleum/> accessed 3 December 2018; 'Oil: Crude And Petroleum Products - Energy Explained, Your Guide To Understanding Energy - Energy Information Administration' (*Eia.gov*, 2018) <https://www.eia.gov/energyexplained/index.php?page=oil_home> accessed 3 December 2018.

[2] After this, abbreviations and initialism will be used where necessary to avoid boring the reader. For example, instead of continually writing National Oil Companies and International Oil Companies, a simple use of the abbreviation NOC and IOC will be used.

[3] Petroleum-state can be defined as a state with large proven oil and gas reserves, and also with high level of crude production and exportation. See 'Oil Reserves Definition' (*Investopedia*, 2020) <https://www.investopedia.com/terms/o/oil-reserves.asp> accessed 26 May 2020; 'Oil-Rich | Meaning Of Oil-Rich' (*Longman Dictionary of Contemporary English*, 2020) <https://www.ldoceonline.com/dictionary/oil-rich> accessed 26 May 2020 and 'OPEC Share Of World Crude Oil Reserves' (*OPEC*, 2019) <https://www.opec.org/opec_web/en/data_graphs/330.htm> accessed 26 May 2020.

regulatory framework that promotes the involvement of their NOC in the development and production of the petroleum resources would assist the state in value creation through these resources. For a petroleum resource-rich country, whether a developed or developing country, the importance of their NOC in the effective utilization of their petroleum resources cannot be over-emphasised. Potentially, the beneficial utilization of these resources cannot be achieved without full control and ownership of the petroleum resources and the industry. For full control and ownership to be achieved, the importance of a robust petroleum regulation and policy cannot be exaggerated.

It can be argued that leaving the exploration and production of oil and gas resources in the complete control of the private sector (international oil companies) could lead to results where the average citizen of a petroleum-rich country will not benefit from the exploitation of these petroleum resources. At the same time, it has also been argued that, generally governments, especially those from developing countries, are not capable of effectively regulating their petroleum industry.[4] Therefore, strong knowledge and control of the industry can act as the best means for governments to learn about the industry. Thus, no government can effectively regulate an industry it does not comprehend.

Therefore, this thesis seeks to argue that the formulation of a comprehensive petroleum resources legal framework is one of the most crucial steps to building a thriving upstream petroleum industry. Another is to create a regulatory entity to enforce the legal regime and a NOC to support government in achieving its policy goals and to assist in the implementation of the legal framework. While stressing the importance, and the vital role the NOC has to play in achieving a beneficial petroleum industry for the citizens of a petroleum resource-rich state. The policies and regulatory frameworks that would assist developing countries harness the benefits from the exploitation of its resources is what this study will deal with.[5] For example, West Africa, at the beginning of the 21st century, saw a

[4] See Dawda Adams and others, 'Globalisation, Governance, Accountability And The Natural Resource ‘Curse’: Implications For Socio-Economic Growth Of Oil-Rich Developing Countries' (2019) 61 Resources Policy 128. See also, Oumarou Zallé, 'Natural Resources And Economic Growth In Africa: The Role Of Institutional Quality And Human Capital' (2019) 62 Resources Policy 616.
[5] Ustina Markus, *Oil and Gas* (Palgrave, Macmillan Education 2015) 274.

burst of exploration activities in its oil fields.[6] Also, according to its geology, further oil and gas fields are yet to be discovered. Major oil producing countries in Africa including Nigeria and Angola have benefited immensely from oil and gas discoveries and an increase in revenue from the petroleum resources, which however has led to high levels of corruption and a lack of accountability on the part of the government, and no benefits to the average citizen of these countries - a situation that can still be observed today.[7] By way of demonstration, these threads of analysis between developed and developing petroleum-rich state (Norway and Nigeria respectively) will run through the thesis.

1.2 Context of the Study

It is generally observed that NOCs can play a crucial role in managing and controlling the petroleum resources in a country and in aiding a country that is endowed with petroleum resources to maximise the benefits of these resources. Today over 80% of the world's oil and gas reserves are controlled by NOCs.[8] As a result, the importance of these government institutions to the global oil and gas industry cannot be exaggerated.[9] It is arguable that since 1991 nearly 80% of the conventional crude oil reserves have been controlled by NOCs. Nevertheless, this control over the natural resources over this period has not led to operational efficiency, as the works of Eller et al. suggested.[10] For some countries, it is yet to be substantiated whether the NOC has contributed to the developmental needs of the country that established it. This and more will be what this thesis will be concerned with, as the NOC will be at the heart of the thesis discussion. Additionally, it is important to recognise the position occupied by NOCs in the

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[6] Ibid.

[7] Ibid.

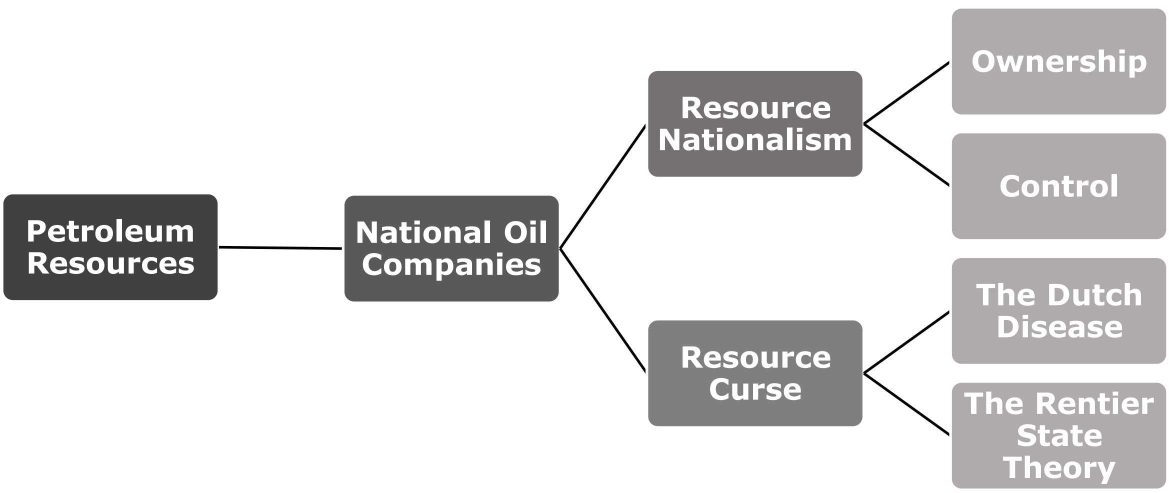
[8] See, 'National Oil Companies (Nocs)' (*Extractives Hub*, 2020) <https://extractiveshub.org/servefile/getFile/id/4220> accessed 26 May 2020.

[9] Valérie Marcel and John V Mitchell, *Oil Titans: National Oil Companies In The Middle East* (Chatham House 2006) 1. See, 'The National Oil Company Database' (*Natural Resource Governance Institute*, 2019) <https://resourcegovernance.org/analysis-tools/publications/national-oil-company-database> accessed 7 January 2020. See also, Anton Oussov, 'Are NOCs The New IOCs?' (*KPMG*, 2019) <https://home.kpmg/xx/en/home/insights/2018/04/are-national-oil-companies-the-new-international-oil-companies.html> accessed 7 January 2020 and Mark Thurber, 'NOCs And The Global Oil Market: Should We Worry' (*Energy.stanford.edu*, 2012) <https://energy.stanford.edu/sites/g/files/sbiybj9971/f/thurber_energy_seminar_nocs_06feb2012_final_0.pdf> accessed 7 January 2020.

[10] Stacy L. Eller, Peter R. Hartley and Kenneth B. Medlock, 'Empirical Evidence on the Operational Efficiency of National Oil Companies' (2010) 40 Empirical Economics. See also, Peter Hartley and Kenneth B. Medlock, 'A Model Of The Operation And Development Of A National Oil Company' (2008) 30 Energy Economics 2460.

global petroleum industry, because from the 1930s to 2000s, the struggle for control over petroleum resources was on going, and countries affirming their ownership and sovereignty over these resources, led to periods of nationalisation.[11] The commonality between the reasoning of some states was the establishment of a NOC to be able to affirm the state's independence and put national development before foreign interests.[12] This affirms some claims that resource nationalism needed a NOC or government owned entity.[13] Further, the study seeks to understand the meaning of resource nationalism and its concept of ownership and control. How the laws, policies and regulations of the upstream petroleum industry that mirror this concept help a state in actualising the goals set out by the government. Arguably, some resource-rich developing states do not have full control over their natural resources and the benefits are only limited to a group and not the people in general. The thesis will be seeking an explanation for the cause of these situations. The figure below illustrates the studies conceptual framework.

Figure 1: Thesis Conceptual Framework



Source: the author

As shown in the above figure, petroleum resources often matter to NOCs. NOCs are usually set up to manage the petroleum resources of the state in question, but how effectively the NOCs carry out this duty is still unclear. Also, the NOC

[11] Christa N. Brunnschweiler and Steven Poelhekke, 'Pushing One's Luck: Petroleum Ownership And Discoveries' [2019] OxCarre Research Paper 219.
[12] Ibid.
[13] See Paul Stevens, 'National oil companies and international oil companies in the middle east: Under the shadow of government and the resource nationalism cycle' (2008) 1(1) The Journal of World Energy Law & Business 5

contribution to the management of this natural resources is not straight forward to assess. Some NOCs have been seen to contribute to the growth of their countries' economy and petroleum sector. Equinor of Norway is an example. As shown by the figure, this study will try to make a theoretical contribution to existing research while bringing together theoretical perspectives within which the research is defined, is the role of this study's conceptual framework.[14] NOCs when effectively used in managing a state's petroleum resources, can overcome the resource curse that has been known to plague petroleum resource-rich states, thus wielding their ownership and control rights, often termed resource nationalism.

Further, the research aims to explain the upstream sector policy and proposes a new focus of policy for a petroleum resource-rich developing country. Furthermore, in building the theory, this study will put forward an analytical framework to explain the variations and similarities in the upstream sector policies and regulatory frameworks of select countries. To achieve the goals mentioned above, four bodies of literature are brought together: the literature on national oil companies; resource nationalism; resource curse and the rentier state theory. The connection between petroleum resources and the resource curse, especially in petroleum-rich developing countries has been investigated, and the adverse outcomes for the economic development of these countries.[15] Notably, some resource curse scholarship has neglected the ownership and control structures and by extension, the role of policy and regulations in the petroleum industry.[16] According to Berman, the personal conceptualisation of those, as mentioned earlier, and new knowledge creation occurs when multiple theoretical frameworks are explored in a study, to proffer solutions to the research problem.[17] Therefore, this study will be built on the foundation of an extensive review of previous analysis and studies the theoretical framework of this study will be built.

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[14] Jeanette Berman, 'Utility Of A Conceptual Framework Within Doctoral Study: A Researcher's Reflections' (2013) 23 Issues in Educational Research 1.

[15] See Mohsen Veisi, 'Essays On The Links Between Natural Resources, Corruption, Taxation And Economic Growth' (PhD, University of Manchester 2017).

[16] Bianca Sarbu, *Ownership and Control of Oil: Explaining Policy Choices Across Producing Countries* (Routledge 2014) 11.

[17] Jeanette Berman n 14. See also, Jeanette Berman and Robyn Smyth, 'Conceptual Frameworks In The Doctoral Research Process: A Pedagogical Model' (2013) 52 Innovations in Education and Teaching International 125.

Further, the bodies of literature as mentioned earlier will be used in answering the research questions, achieving the aims and scope of the thesis, and showing the importance for a petroleum-rich developing state to maintain a NOC. That having been said, this thesis will add to existing legal knowledge in connection to NOCs as a tool used by governments in exerting control over its petroleum resources and industry. In considerable detail, the thesis elucidates the actual control of the upstream petroleum sector in a petroleum-rich country; notably, in both a developed and developing country. Therefore, this shows the study's conceptual framework validity, as a significant interpretation of the available data concerning the theories analysed in the study.[18]

State control and ownership debates will be unpacked to fully explain the resource curse literature and how it shapes the institutions of a resource-rich country. There arises the need for a fundamental understanding of the global petroleum industry, the policies, control structures, upstream ownership-control dyad, implications of state control, and the instruments through which these policies are implemented in practice. Nigeria and Norway will be the focus of this study together with their NOCs which play a significant role in each countries' domestic oil and gas industry. Debates over the importance of national oil companies, resource nationalism (ownership and control), the resource curse and rentier state are then brought together to explain the choices of the upstream oil and gas policies of Norway and Nigeria.

A country that is endowed with hydrocarbon resources can maximise the benefits of its petroleum resources through the establishment of a NOC. Although, today, industry commentators support the free market or liberal approach towards the development of natural resources, where the development of these resources is left in the hands of the private sector.[19] Their position on this matter is supported

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[18] See Shirlee-Ann Knight and Donna Cross, 'Using Contextual Constructs Model To Frame Doctoral Research Methodology' (2012) 7 International Journal of Doctoral Studies 39.

[19] See Naná de Graaff, 'The Hybridization Of The State–Capital Nexus In The Global Energy Order' (2012) 9 Globalizations 231, and Jonah D Levy (ed), *The State After Statism* (Harvard University Press 2006) 3 – 7. See also, Rachel Parker and Stephen Cox, 'The State And The Extractive Industries In Australia: Growth For Whose Benefit?' (2020) 7 The Extractive Industries and Society 621, and Richard Huizar, 'Why Was Yacimientos Petrolíferos Fiscales (YPF), Argentina'S National Oil Company, Privatized?' (2019) 6 The Extractive Industries and Society 863.

by the argument of waste and mismanagement that has occurred in some countries and the particular roles played by their NOCs. The critical factor in this research is the regulatory frameworks and policy, how these laws and policies are formulated, and what influences the decisions taken by the governments. This study will be focused on how a government can use its upstream oil and gas industry regulatory framework and policy as a strategy in turning its petroleum resources into economic development and overall benefit to the people of the state.

Finally, for the NOC to create value through the management and exploitation of the petroleum resources, the importance of the policies and legal framework cannot be over-emphasised because a strong foundation makes for a sturdy structure. A robust legal framework and energy policy will guide the NOC in achieving the set-out objectives of the government, thus leading to value creation for the people of the country. The upstream legal framework and energy policies will be the central focus of this study and will assist the research in looking at the strategic decisions that face the NOCs. Operatorship, resources, geography and political-strategic decisions will be examined in detail.

1.3 Research Questions

This thesis seeks to answer the following question: **to what extent can full control and ownership of petroleum resources by a developing country through its National Oil Company better lead that country to economic development and an enhanced standard of living for its people?**

Further questions arising from the research question:

1. How can a NOC of a petroleum-rich state convert these natural resources into economic and social development?
2. Are there any lessons to be learned from a developed petroleum-rich state?

1.4 Research Aims and Scope

The research aims to critically evaluate the expanding roles of NOCs and how a NOC from a developing petroleum-rich country can efficiently manage the petroleum resources, thus creating value for the people, through the government petroleum regulatory policies and the NOCs direct participation in the petroleum industry. Furthermore, the research aims to argue the critical role a NOC plays in the successful use of petroleum resources to achieve economic and social development, especially in a petroleum-rich developing country.

Therefore, in answering the research questions, the theoretical framework that will be developed in this thesis is the foundation of a thorough evaluation of previous studies and analyses. Further, in answering the research questions consultation of the relevant literature will assist the study in articulating the theories, that will shed more light and bring to life the research questions, aims and scope. Even after the proclaimed ownership and control of petroleum-rich developing countries like Nigeria, the evidence shows that these country's petroleum industries are still handmaidens to the IOCs.

As such, this thesis seeks to investigate how a petroleum-rich developing state can maximise the benefits of their petroleum resources production, also how to ultimately achieve success with a NOC in the development of these petroleum resources.

The scope of the thesis is limited to petroleum-producing countries, developed and developing ones. Consequently, for emphasis, examples from other petroleum-rich countries will be used. Furthermore, for comparative analysis, the petroleum industry of Nigeria and Norway represent the developed and developing countries, respectively. In both countries, NOCs will be the centre of analysis showing the critical roles NOCs play in achieving economic development through the effective management of petroleum resources. Nigeria, as a well-known West African petroleum-rich state, is usually used as a negative example. For instance, when it comes to petroleum resources management and her NOC the Nigerian

National Petroleum Corporation (NNPC), it is one of waste and corruption,[20] while Norway is popularly used as a positive example of a progressive state, whose management of their petroleum resources has been remarkable, also their NOC Equinor.[21] Therefore, the decision to use both countries on different spectrums of the global petroleum industry is relevant to the study, as it assist to bring out and develop different strands of argument by providing the contrasting illustrations of the issues covered in the different theories, topics and chapters in this thesis.

1.5 Research Methodology

The study builds on the extensive literature on NOCs, resource nationalism, the resource curse and rentier state theories. Primarily, when carrying out legal research,[22] communicating the methodology[23] to be used makes clear what is one's particular academic viewpoint, which helps the reader comprehend where one is coming from in the research and where the research sits in connection to other scholarly work.[24] Further, Jaap Hage, defined methodology and method as follows:

> the methodology is the study of the proper standards for scientific arguments, and a method is a set of standards through which the relevance of arguments can be evaluated.[25]

Therefore the relevance of the arguments flows from the existing literature or the studies in the thesis attempting to answer the questions, and also in achieving the

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[20] See Nick Branson and Ed Hobey-Hamsher, 'The Diverging Fortunes Of Africa's Crude Kings' (*Petroleum-economist.com*, 2019) <https://www.petroleum-economist.com/articles/politics-economics/africa/2019/the-diverging-fortunes-of-africa-s-crude-kings> accessed 30 December 2019.
For purpose of brevity, the abbreviations 'NNPC' will be used to describe the Nigerian NOC.

[21] See Katarzyna Dośpiał-Borysiak, 'Model Of State Management Of Petroleum Sector – Case Of Norway' (2017) 20 International Studies. Interdisciplinary Political and Cultural Journal 97.

[22] Legal research can be said to be a tradition which draws attention to the law as a practical discipline, and methods that position law as an aspect of the humanities or the social sciences. Mathias M. Siems and Daithí mac Síthigh, 'Mapping Legal Research' (2012) 71 The Cambridge Law Journal.

[23] Oxford English Dictionary defines Methodology as 'a system of methods used in a particular area of study or activity' See, Methodology | Definition of Methodology in English by Oxford Dictionaries (*Oxford Dictionaries |English*, 2017) <https://en.oxforddictionaries.com/definition/methodology> accessed 24 February 2019.

[24] See Caroline Morris and Cian Murphy, *Getting A PhD in Law* (Hart 2011) 29.

[25] Jaap Hage in Mark van Hoecke, Maurice Adams and Dirk Heirbaut, *The Method and Culture of Comparative Law* (Hart 2015) 38. Also, the methodology has been described as ways or methods to follow in order to achieve a result or results; and methods are the means one undertakes in achieving the result. Geoffrey Samuel, *An Introduction to Comparative Law Theory and Method (European Academy of Legal Theory Monograph Series)* (Bloomsbury Publishing 2014).

aims of the thesis. Further, in conducting research, the specific methods of collecting data and analysis is a significant component of the research approach.[26] Chynoweth, saw the research process as an analytical one rather than one of data collection,[27] nevertheless, for clarity of research methodology,[28] is critical because it provides the structure and underpinning of both the research and the arguments that the research is relying on.[29] In addition, quantitative and qualitative methods or even mixed methods are often used in academic studies. These methods all contribute to an approach to research of academic knowledge claims.[30] Creswell asserted that qualitative research starts with the assumptions and the use of interpretative or theoretical frameworks that inform the study of the research problems while tackling the meaning attributed to a problem by other commentators.[31] Furthermore, according to Denzin and Lincoln, qualitative research in its rights is a field of inquiry that cuts across disciplines, fields and

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[26] See John W Creswell, *Research Design* (Sage Publications 2008) 17. See also, Dilanthi Amaratunga and others, 'Quantitative And Qualitative Research In The Built Environment: Application Of "Mixed" Research Approach' (2002) 51 Work Study 17.

[27] See Paul Chynoweth, 'Legal Research In The Built Environment: A Methodological Framework' [2008] University of Salford <http://usir.salford.ac.uk/id/eprint/12467/1/legal_research.pdf> accessed 7 January 2020.

[28] According to Morris and Murphy, methodology refers to the particular way or ways in which one carries out research, and also any accompanying assumptions and perspectives, articulated or not, surrounding an investigation into a particular research topic. See, Caroline Morris and Cian Murphy (n. 24) 28 – 29.

[29] Caroline Morris and Cian Murphy (n. 24) 29. See also, Jan Jonker and Bartjan Pennink, *The Essence Of Research Methodology: A Concise Guide For Master And PhD Students In Management Science* (Springer 2010) 17.

[30] John Creswell in clarifying three approaches to research, put forward these definitions:

> A quantitative approach is one in which the researcher uses cause and effect thinking, reduction to specific variables and hypotheses and questions, use of measurement and observation, and the test of theories employs strategies of inquiry such as experiments and surveys and collects data on predetermined instruments that yield statistical data.
>
> A qualitative approach is one in which the researcher often makes knowledge claims based primarily on the multiple meanings of individual experiences, meanings socially and historically constructed, intending to develop a theory or pattern or participatory perspectives, i.e. political, issue-oriented, collaborative, or change-oriented or both.
>
> Finally, the mixed methods approach is one in which the researcher base knowledge claims on pragmatic grounds, e.g. consequences-oriented, problem-centred that employs a strategy of inquiry that involves collecting data either simultaneously or sequentially to understand the research best.
>
> John W Creswell (n. 26) 17 – 21.

[31] John W Creswell, Qualitative Inquiry and Research Design (Sage Publications 2013) 42 – 25.

Martyn Denscombe gave the distinctions between quantitative research and qualitative research:

> quantitative research uses numbers as a unit of analysis while qualitative research uses words or visual images as the unit of analysis;
>
> quantitative research tends to be associated with analysing specific variables while qualitative research tends to be associated with holistic perspective; finally, quantitative research usually analyses its data after collection while qualitative research tends to be associated with the data analysis during the data collection.

See Martyn Denscombe, *Good Research Guide* (Open University Press 2017) 6 – 7; Ian Dobinson and Francis Johns in Mike McConville and Wing Hong Chui, *Research Methods for Law* (Edinburgh University Press 2007) 33 – 34.

subject matter.[32] They further stated that the studied use of numerous empirical materials is what qualitative research is involved with.[33]

Webley asserted that quantitative and qualitative as the two traditions of research rest on different epistemologies, as quantitative methods are usually linked with deductive reasoning. In contrast, qualitative methods usually depend to a high degree on inductive reasoning.[34] Arguably, qualitative research may not provide structured generalised findings,[35] however, in-depth qualitative methods in many cases of problems within a legal system leads to best practice insights, and the effect of policy shifts can be evidenced.[36] Qualitative research and analysis theories influence how it is conducted. Consequently, the researcher attempts to expand on or develop a theory in order to furnish a more practical comprehension of the resource nationalism phenomenon.[37] That said, the study will adopt a qualitative method in answering the research questions. Consequently, this research will critically engage in the examination of some theories and resource nationalism phenomenon, and in so doing will advance a better understanding of them. In addition, for the research to achieve its aims and objectives the legal method of research would be generally used.

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[32] Norman K Denzin and Yvonna S Lincoln, *The landscape of Qualitative Research* (Sage 2013) 5

[33] Ibid. (n. 32) 7.

The use of words as data, collected and analysed in research is the basic definition of qualitative research while in contrast, quantitative research uses numbers as data and analyses in carrying out the research. Virginia Braun and Victoria Clarke, *Successful Qualitative research* (Sage 2014) 3 – 4.

Also, Direct observation, in-depth interviews and analysis of documents are the three main methods of qualitative research, although they can be used individually or in a combination. See Lisa Webley, Qualitative Approaches to Empirical Legal Research in Peter Cane and Herbert M. Kritzer (eds), *The Oxford handbook of empirical legal research the Oxford handbook of empirical legal research* (Oxford University Press 2010) 928.

[34] Webley asserted that deductive reasoning is formed on general hypotheses put forward before data collection begins. While inductive reasoning seeks to obtain general themes or models from the data collected as the research progresses. See Lisa Webley, Qualitative Approaches to Empirical Legal Research in Peter Cane and Herbert M. Kritzer (eds) (n. 33) 929.

[35] When it comes to the findings from both research methods, quantitative studies when well planned and carried out usually puts forward findings that are generalised to the population, where a relevant sample from the population has been drawn. In contrast, qualitative research usually centres its study on a smaller number of observations or data sources whether people, events or documents; it examines them in depth. Lisa Webley, Qualitative Approaches to Empirical Legal Research in Peter Cane and Herbert M. Kritzer (eds) (n. 33) 934.

[36] See, Lisa Webley, Qualitative Approaches to Empirical Legal Research in Peter Cane and Herbert M. Kritzer (eds) (n. 33) 948.

[37] Ian Dobinson and Francis Johns in Mike McConville and Wing Hong Chui (n. 31) 21.

In carrying out this work, primary and secondary sources of data will be used. These may include but are not limited to statutory materials, textbooks, legal periodicals, energy Journals, case reports, Parliamentary debates and government reports, international organisation papers and reports, e.g. UN reports, World Bank reports, IMF reports and OPEC Reports.

1.5.1 Legal Research

This research involves legal research, which can be interpreted to cover the full length of investigative, analytical, critical, theoretical and synthesising of intellectual activity, while also formulating the hypothesis to give meaning to already created legal rules.[38] Given the legal nature of the proposed research, the methodology to be adopted will be the qualitative method of research, which will be divided into three parts: doctrinal research, non-doctrinal research and a comparative study of the Norwegian and Nigerian upstream oil and gas industries. The doctrinal approach will help the researcher determine the particular laws of the selected petroleum-rich countries. Then one considers the problems currently affecting the laws of these petroleum-rich countries and the policies that form the basis for the existing law. The flaws of these policies will be highlighted, and this may lead to a proposal of change in the existing petroleum law.[39]

Further, the research will examine the resource nationalism phenomenon and the existing theory or body of theory. In doing so, it is particularly suitable to use the qualitative research method in examining the phenomenon of resource nationalism, its existence and nature.[40] For a more useful understanding of the phenomenon, an elaboration on the existing theories will be attempted through qualitative analysis which is influenced by theories.[41] Theories of the resource curse and rentier state would critically be examined in the study. Again, the conceptual structure of this study borders on the theory of resource nationalism

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[38] Mike McConville and Wing Hong Chui (n. 31) 161.
Also, the manipulation and examination of theoretical concepts usually are what legal scholarships are concerned with. Knight A and Ruddock L (eds), *Advanced research methods in the built environment* (Wiley-Blackwell 2008) 37.
[39] Mike McConville and Wing Hong Chui (n. 31) 20.
[40] Peter Cane and Herbert M. Kritzer (eds), *The Oxford handbook of empirical legal research the Oxford handbook of empirical legal research* (Oxford University Press 2010) 948.
[41] Mike McConville and Wing Hong Chui (n. 31) 21.

which in turn includes the ownership, control and regulation of natural resources. The NOCs play a critical role in achieving the goals or objectives of government.

1.5.2 Doctrinal Legal Research

Doctrinal research or Blackletter analysis has been argued to be the traditional legal methodology.[42] Furthermore, through critical analysis of legal rules, legal doctrines are formed, thereby leading to discovery and development of legal doctrines.[43] This is what doctrinal legal research is concerned with. In light of those mentioned earlier, this work seeks to provide a systematic interpretation of the rules governing the petroleum industry in the selected jurisdictions, while also analysing the relationship between the rules, explaining the areas of difficulty, and perhaps, predicting future developments. This form of research is known as doctrinal research.[44]

Further, in making a significant contribution to the understanding of the legal processes involved in resource nationalism, resource curse theory, rentier state theory and the role of the NOCs from a developing petroleum-rich country, conventional legal materials are estimated to contain much data to assist the doctrinal legal researcher.[45] According to Hutchinson and Duncan, the doctrinal method is a two-part process, the locating of the sources of law and then the interpreting and analysis which is usually what the doctrinal method entails.[46]

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[42] Caroline Morris and Cian Murphy stated that:

> black letter method focuses almost entirely on the law's language of statutes and case law to make sense of the legal world.

Furthermore, the internal consistency of the law is what doctrinal analysis is concerned with, and it uses particular techniques to achieve that. See, Caroline Morris and Cian Murphy (n. 22) 29 – 30. See also Terry Hutchinson and Nigel Duncan, 'Defining And Describing What We Do: Doctrinal Legal Research' (2012) 17 Deakin Law Review 83.

[43] See Paul Chynoweth, 'Legal Research' in Andrew Knight and Les Ruddock (eds), *Advanced Research Methods In The Built Environment* (John Wiley & Sons 2009) 29-30.

[44] See Mike McConville and Wing Hong Chui (n. 31) 160.

[45] Ibid., 85.

[46] Terry Hutchinson and Nigel Duncan n. 42.

1.5.3 Non-Doctrinal Legal Research

According to Vibhute et al., non-doctrinal legal research seeks to understand the impact of the legal process on people, their values and the institutions.[47] Most non-doctrinal legal research approaches and perspectives fall under the parasol of socio-legal.[48] Also, socio-legal approach to understanding the law as a social phenomenon or as a social experience, it looks beyond the legal doctrine.[49] Furthermore, the exact meanings and definitions of socio-legal studies are intricate and disputed, because socio-legal studies cover the broad scope of scholarship carried out, and it is not restricted methodically within well-defined boundaries.[50] An inquiry will be carried out into the functions of the NOC and its impact on the welfare of the people. Information on the critical roles of the NOC in the selected country and the theory of resource nationalism will be collected by systematic observation of the laws, laws-in-action, policies and institutions that are relevant to this study.

Further, Crowney and Bradney acknowledged that the term socio-legal could be imprecise and at times controversial in nature while stressing that socio-legal study is not a synonym for 'empirical research' and that socio-legal research undoubtedly draws on many disciplines that are located in the arts and humanities and not restricted to the social sciences.[51] In addition, the term socio-legal studies have been used from research's ranging from feminist studies to critical legal studies, which shows the range and separate movements within the socio-legal scholarship.[52] The inquiry, therefore, aims to investigate the successful management of petroleum resources by one country and why the same achievement can be replicated, even in a developing country. Thus, the abundance of these resources becomes a factor.

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[47] See Vibhute K. and Ayanalem F., 'Legal Research Methods' (2009) Chilot.Wordpress.com <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf> accessed 7 September 2019 87 – 89.
[48] See Caroline Morris and Cian Murphy (n. 22) 34 – 35. See also, Paddy Hillyard, 'Law's Empire: Socio-Legal Empirical Research In The Twenty-First Century' (2007) 34 Journal of Law and Society 266.
[49] Ibid.
[50] See, Fiona Crownie and Anthony Bradney in Dawn Watkins and Mandy Burton (Eds), *Research Methods In Law* (2nd edn, Routledge 2013) 35 - 36. See also, Caroline Morris and Cian Murphy (n. 22) 35.
[51] See Fiona Crownie and Anthony Bradney in Dawn Watkins and Mandy Burton (Eds) (n. 47) 51.
[52] Ibid.

1.5.4 Comparative Study

The words 'Comparative law'[53] indicates a cognitive activity with the law as its object and comparison as its process thus, the consideration of the similarities and differences of the different legal systems of the world is generally referred to as comparative law.[54] Also, comparative law involves the appraisal of dissimilar legal systems.[55] Although, in the narrow scope of this study it looks mainly at the upstream petroleum sector of the two selected countries. So the difference between the Norwegian petroleum sector and that of Nigeria will be carried out mainly in chapter 6. A comparative study is, in essence, a question of the similarities and differences found in comparing legal systems, and the effort to explain the rationale for the differences and similarities in the different jurisdictions studied.[56] Specifically, this study looks at NOCs and the petroleum industries of Norway and Nigeria. In addition Kahn-Freund maintained that when carrying out a comparative legal study there is need to be acquainted with not only the knowledge of the foreign law, but also of the social and political context of the state.[57]

According to Zweigert and Kötz, when looking into different nations' legal system[58] the methods of thought and procedure used, which is sometimes called *macro comparison*, can be used to compare the spirit and style of the different legal

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[53] Rainer put forward that comparative law is a sub-discipline of jurisprudence which basically engages in the study of different phenomena in the different legal systems of the world and comparatively examines and analyses them. See J. Michael Rainer, *Introduction to Comparative Law* (Manz 2010) 2.
Also, John Bell stated that comparative law is a sub-branch of legal research. See also, John Bell in Mark Van Hoecke (ed), *Methodologies of Legal Research* (Hart Publishing 2011) 157.

[54] Konrad Zweigert and Hein Kötz, *Introduction to Comparative Law* (Clarendon Press 1998) 2. Also, comparative law, through its process, can lead to a policy recommendation for one or more of the countries involved in the research. See, Mathias M. Siems, 'Legal Originality' (2008) Vol. 28 Oxford Journal of Legal Studies 147.

[55] See Jonathan Hill, 'Comparative Law, Law Reform And Legal Theory' (1989) 9 Oxford Journal of Legal Studies 101.

[56] Jaakko Husa in Mark van Hoecke, Maurice Adams and Dirk Heirbaut, *The Method and Culture of Comparative Law* (Hart 2015) 53 – 54. Also, to compare means to observe and explain similarities as well as differences.
See, Rudolf B. Schlesinger, 'The Past and Future of Comparative Law' (1995) Vol. 43 The American Journal of Comparative Law. 477; Geoffrey Samuel in Mark Van Hoecke, *Methodologies of Legal Research* (Hart Publishing 2011) 182 and Chris G. Pickvance, 'Concepts, Contexts And Comparison In The Study Of Urban Movements: A Reply To M Castells' (1986) 4 Environment and Planning D: Society and Space 221.

[57] Otto Kahn-Freund, 'On Uses And Misuses Of Comparative Law' (1974) 37 The Modern Law Review.

[58] By looking at other countries legal systems, it is hoped that it benefits the national legal system of the observer, offering proposals for the future developments, providing warnings of possible difficulties, giving the observer a chance to stand back from one's national system and look at it more critically yet not separating it from the comparative study plan. Mike McConville and Wing Hong Chui (n. 31) 87.

systems.[59] Further, according to Legrand when carrying out a comparative work the interpreter needs to augment their knowledge for different structures of meaning and must decide on how to communicate the acquired understanding of another legal culture within the incompatible framework of their own legal structure.[60] Also, one must have the awareness that the nature of the culture varies from one society to another.[61] A cross-national analysis of the NOCs, and regulatory frameworks of the petroleum industry of Norway and Nigeria will be used to argue and explain the thesis assertions. There is no agreement on the kind of methodology to be followed, nor even the methodologies that could be followed when carrying out a comparative study, as comparative legal studies are usually conducted to look outside one's territory to see how legal problems have been solved elsewhere or looking across families of law for common threads of development or patterns in legal answers to societal issues.[62] Furthermore, a thorough and contextual approach may be required when engaging in comparative research, that sets out to improve one's legal system by looking at a different legal system.[63]

Conceivably, knowledge is the primary aim of comparative law it extends and enhances the 'supply of solutions' and assists the researcher to understand different societies and cultures of the world also, comparative law is especially useful to develop countries embarking on the journey of law reform.[64] Petroleum

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[59] They went forward to say that by contrast, *a micro comparison* has to do with specific legal institutions or the rules used to solve actual problems. Flexibility is the dividing line between macro comparison and micro comparison. However, most times it is expected both are done at the same time because to understand why another nation's legal system solves a particular problem the way it does, and one has to study the procedures by which the rules are applied. See Konrad Zweigert and Hein Kötz, (n. 54) 4 – 5.

[60] Pierre Legrand, 'Comparative Legal Studies And Commitment To Theory' (1995) 58 The Modern Law Review 262. See also, Pierre Legrand, 'Comparative Legal Studies And The Matter Of Authenticity' (2006) 1 Journal of Comparative Law 365.

[61] See Alan Watson, 'From Legal Transplants To Legal Formants' (1995) 43 The American Journal of Comparative Law 469.

[62] See Mark Van Hoecke, 'Methodology of Comparative Legal Research' [2015] Law and Method <https://biblio.ugent.be/publication/7145504/file/7145530> accessed 25 September 2019 and Caroline Morris and Cian Murphy (n. 22) 37. See also, Jonathan Hill, 'Comparative Law, Law Reform And Legal Theory' (1989) 9 Oxford Journal of Legal Studies 101.

[63] Ibid.

[64] Konrad Zweigert and Hein Kötz (n. 54) 15 – 16. Also, Legal solutions given to a particular problem may be the same notwithstanding the difference in legal concept, legal rules and legal procedures. See, Mark Van Hoecke n. 56. See also, Sylvester O Nliam, 'Principle Brought Home In The Nigerian Petroleum Industry? Comparative Perspectives Between Nigeria And The UK' (PhD, University of Aberdeen 2011) and Douglas T Mailula, 'Protection Of Petroleum Resources In Africa: A Comparative Analysis Of Oil And Gas Laws Of Selected African States' (PhD, University of South Africa 2013).

sector reforms have been on the rise since the oil price crash, and especially for petroleum resource-rich states, it has become paramount that strategic changes be made in the petroleum sector for an increase in value creation through the effective management of the petroleum resources, and revenues.

Therefore, the need to learn from a developed petroleum-rich state becomes necessary as foreign laws and experience of other countries in a particular legal system can help another country choose the best solution that is suitable to its legal tradition.[65] Although, it is essential to proceed with caution and intelligence, the rejection of a solution to a problem on the grounds that it is foreign, even after a comparative analysis suggest the adoption of that particular solution would not be a sage decision.[66] In adopting an assumed superior foreign solution Zweigert and Kötz put forward two critical questions that must be asked:

> first, whether it has proved satisfactory in its country of origin and secondly, whether it will work in the country where it is proposed to adopt it.[67]

Adopting a different solution is not always straight forward, as many factors must be considered. For example, history, demography, type of government and many more factors come into consideration. Zweigert and Kötz stated that the fundamental methodological principle of all comparative law is that of functionality.[68] Moreover, this principle flows through all the other rules which determine the choice and extent of the undertaking of the laws to be compared,[69]

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[65] Konrad Zweigert and Hein Kötz (n. 54) 17.

[66] Ibid. See also Pierre Legrand, 'Comparative Legal Studies And The Matter Of Authenticity' (2006) 1 Journal of Comparative Law 365.

[67] Konrad Zweigert and Hein Kötz (n. 54) 17. Also, legal or non-legal institutions are comparable if they are functionally identical if they fulfil similar functions in different legal systems. See, Ralf Michaels, 'The Functional Method of Comparative Law' (*Duke Law School Legal Studies Duke University*, 2005) <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2033&context=faculty_scholarship> accessed 25 September 2017.

[68] Functionality has been noted to serve different goals: from understanding laws, comparing, focusing on similarities, building a system of legal families, determining the 'better law' unifying law and to the critical appraisal of the legal orders. See Mark Van Hoecke n. 56. See also, Geoffrey Samuel (n. 25); Jaakko Husa in Mark van Hoecke, Maurice Adams and Dirk Heirbaut (n. 56) 60 – 63.

[69] Zweigert and Kötz stated that:

> incomparable cannot usefully be compared, and in law, the only comparable things are those who fulfil the same function.

Konrad Zweigert and Hein Kötz (n. 54) 34.

although legal scholars have widely criticised the principle of functionality.[70] Further, the belief that most legal systems of different societies face fundamentally the same problems and these are resolved in different ways, although often with similar results. Thus, functionality,[71] the proposition is supported by the knowledge gained by the legal comparatist.[72] Critical and normative assessment of the findings and inquiring which solution most effectually answers the social problem in each place is said to be the final step of a functional approach.[73] The validity of the findings generally supports the choice of a specific method used in the thesis.

Consequently, the validity of the conclusion of the study becomes essential.[74] Therefore, to achieve this, comparative research must be unbiased when carried out between two different legal systems for the study to be relevant.[75] This study will include a comparative chapter, where a comparative study on the Norwegian and Nigerian upstream petroleum industry and NOC will be carried out. The laws regulating both countries' oil and gas industry, the legal institutions and the national oil companies, will help uncover the lessons that can be learnt from the different countries' petroleum industry.[76] As a result, will engage in a critical assessment of the quality of law and legal institutions in these countries.[77]

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[70] See, for example, Antonios E. Platsas, 'The Functional and the Dysfunctional in the Comparative Method of Law: Some Critical Remarks' (2017) Vol. 12.3 Electronic Journal of Comparative Law <http://www.ejcl.org/123/art123-3.pdf> accessed 25 March 2018.
[71] Functionality as a method of comparative research is fundamentally looking for such 'functional equivalents' at the level of the solutions. Mark Van Hoecke n 56.
[72] Konrad Zweigert and Hein Kötz (n. 54) 34 – 35.
[73] Petra Mahy, 'The Functional Approach In Comparative Socio-Legal Research: Reflections Based On A Study Of Plural Work Regulation In Australia And Indonesia' (2016) 12 International Journal of Law in Context <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/5851C1C0F0F36FE7E8229608E63A2711/S1744552316000197a.pdf/functional_approach_in_comparative_sociolegal_research_reflections_based_on_a_study_of_plural_work_regulation_in_australia_and_indonesia_1.pdf> accessed 25 March 2018. See also, Konrad Zweigert and Hein Kötz (n. 54)
[74] See Jennifer Rowley, 'Using Case Studies In Research' (2002) 25 Management Research News 16. See also, Larry M. Dooley, 'Case Study Research And Theory Building' (2002) 4 Advances in Developing Human Resources 335.
[75] See Catherine Valcke and Matthew Grellette in Mark van Hoecke, Maurice Adams and Dirk Heirbaut, *The Method and Culture of Comparative Law* (Hart 2015) 101 - 102
[76] Vibhute K. and Ayanalem F. (n. 47) 73.
[77] See Mathias M. Siems, 'Legal Origins: Reconciling Law & Finance And Comparative Law' (2007) 52 McGill Law Journal 55.

In determining how best a resource-rich developing country can successfully manage its oil and gas industry, the study will compare the upstream petroleum industry policies of Norway and Nigeria in each countries respective petroleum industry.[78] In embarking on the comparative study the researcher hopes to carry out a critical study of two different petroleum industries and present a new perspective of the manner in which a petroleum-rich developing country controls and regulates its petroleum industry.[79] Further, by looking at another country's petroleum industry, or rather one that is known in the industry for setting the best practice standard and looking at petroleum-rich developing countries' in the petroleum industry, it is hoped that more renowned petroleum producing country will offer suggestions for future developments and grant the opportunity to step back from one's petroleum industry and look at it more critically.[80]

This comparative method will trigger questions such as, how effective has the government been in the control and regulations of these natural resources and how have the laws helped in dealing with the problems being faced by the petroleum-rich developing country?[81] Furthermore, the comparative study will not only highlight the technical doctrinal problems present in the petroleum-rich developing country, but will also show the social and economic problems and progressively reveal other factors that play a part in deciding the positive or negative outcomes in these countries.[82] For the research problem to be placed within the context of the study, a case study approach will be employed to compare the two nation's NOCs, petroleum legal frameworks and policies, thus leading to the possible application of Norway's legal frameworks to Nigeria.[83]

In the comparative study of the Norwegian and Nigerian upstream petroleum sector, the functional method of comparative study will be used in looking at the actual upstream petroleum problem in Nigeria, and the way in which it is or was

[78] Chiara van Ingen, Requier Wait and Ewert Kleynhans, 'Fiscal Policy and Revenue Management in Resource-Rich African Countries: A Comparative Study of Norway and Nigeria' (2014) Vol. 21 South African Journal of International Affairs. 367 – 390.
[79] Dawn Watkins and Mandy Burton, *Research Methods in Law* (Routledge 2013) 100.
[80] See Mike McConville and Wing Hong Chui (n. 31) 88.
[81] Ibid., 88.
[82] Ibid., 88.
[83] Chiara Van Ingen n. 78.

solved in Norway.[84] The analytical method of comparative law will be used as a tool in analysing the legal concepts and rules governing the upstream petroleum industry (e.g. ownership of natural resources) in different legal systems in such a way that similar parts and differences are discovered.[85] It is essential to note that no two countries are the same. The same is true of their legal systems, when studying and looking to learn from the experience of an older or more advanced country, a developing country in the early stage of its petroleum activities, should be realistic, and not rush into adopting the policies of that jurisdiction without considering various factors, like petroleum potential and reserves, geological and geographical conditions.[86] These will serve as a guideline for the comparative work in this study.

Limitations, controversies and difficulties usually surround the comparative method of study. From the structural differences between the economies of Nigeria and Norway, the size of the two economies, the state administration and type of government system, the fiscal and revenue management policy of Norway and Nigeria is by no means an exhaustive list of limitations, difficulties and controversial issues and questions that arise in carrying out this comparative study at every level and will show how onerous the process is.[87]

1.6 Thesis Structure

This research is structured into seven thematic chapters. Structurally, the thesis proceeds by developing a conceptual framework in Chapter 2, Chapter 3, Chapter 4 and Chapter 5 which is then applied in the comparative analysis of the choice of legislation; upstream policy and legal frameworks chosen by Norway and Nigeria in articulating the key roles and objectives of their NOCs. This will be carried out in Chapter 6. Consequently, the earlier chapters build the theoretical framework

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[84] Mark Van Hoecke n. 56.

[85] The historical method of the comparative study will be essential for helping the researcher understand the differences and similarities between the two legal systems and their historical background. Finally, the law-in context method will be used, and although it has a historical dimension, it centres on the current societal context. Mark Van Hoecke n. 56.

[86] Atef Suleiman, 'The Oil Experience Of The United Arab Emirates And Its Legal Framework' (1988) 6 Journal of Energy & Natural Resources Law 1.

[87] See, Geoffrey Samuel (n. 25) and Chiara van Ingen n. 78.

of the thesis, while chapter 6 will critically unbundle these theories in a critical comparative analysis. Finally, conclusions will be drawn in chapter 7.

NOCs are introduced in Chapter 2, where the historical perspective behind the birth of NOCs will be analysed. Other key players in the global petroleum industry will be analysed, such as OPEC, IOCs and government. Further, the relevance of petroleum resources to the NOCs and global petroleum industry will be examined. As established earlier, 'petroleum resources are the main resource in the discussion. Therefore, chapter 2 seeks to answer the question of 'why petroleum resources?'—also, what is the link between these resources and the NOCs and their objectives.

Chapter 3 critically analyse the rationale behind establishing a NOC, and the relevance of NOCs to the global petroleum market and the home country too. NOCs are the main focus of this research. The rationale in establishing a NOC, the importance of a NOC to a petroleum-rich country developed or developing, objectives whether commercial or non-commercial that guide these NOCs and most important is the legal framework or the policies that steer these NOCs. Finally, there is the rationale for a NOC and the significance of a NOC. Importantly, are NOCs still relevant in today's petroleum industry, especially for the new states that are discovering resources within their territory? Thus, to establish the 'who' perspective of the study, the first institution analysed will be NOCs.

After that, in Chapter 4, this work critically assesses resource nationalism. As earlier stated, the trend of establishing a NOC to assist governments in declaring their sovereignty, ownership and control (resource nationalism) over their petroleum resources, can generally be said to be the reason many NOCs were established. Hence, the nationalisation that occurred in the oil and gas industry is considered and its significance in shaping the global petroleum industry into what it is today. This study will seek to understand how resource nationalism is viewed in the global petroleum industry and did resource nationalism aid in the expansion of the roles of the NOCs? If yes, what are these new roles and how beneficial have they been for the average citizen of the resource-rich state? For example, the

PDVSA of Venezuela has had success over the years in exploiting the natural resources of Venezuela. However, yet it is evident that this exploitation has not benefitted the average citizen of the state, whom the state NOC was operating for; instead, the resources were only for the nations elites and their international partners.[88] This situation can also be witnessed in some other developing states like Nigeria, where its natural resources riches have not benefitted the average citizen. Furthermore, there are types of nationalisation, forms, views and debates about resource nationalism.

Chapter 5, critically examines the Resource Curse theory. It sets out to theorise the resource curse as the problem of resource-rich countries that perform poorly. It reviews the importance of the institutions of the state, the ownership structure and control structure debates. The Dutch disease as a factor for these countries, and poor performance will be critically analysed. Furthermore, Chapter 5 discusses the Rentier State theories. This chapter will be critical in light of the poor performing resource-rich developing countries. Furthermore, the Rent-seeking activities of these countries will be examined. Chapter 5, as well as chapter 4, set out to answer the questions of 'how' the NOCs can successfully create value through the effective management of the petroleum resources for the state.

In Chapter 6, the critical case of the upstream regulatory framework of the select NOCs (NNPC and Equinor) will be assessed comparatively. Correspondingly, a comparative analysis will be given of the Upstream petroleum Regulatory/Policy framework adopted by Norway and Nigeria. An attempt will be made to mirror the cases of Norway and Nigeria, their upstream policies, the legal institutions and the regulatory frameworks that guide their petroleum industry. Why do some countries' upstream oil and gas sector performs better than the others? For governments engaged in selecting upstream petroleum policy option, a comparative study and critical evaluation of the experience of other countries can be instrumental, in helping the country to draw useful lessons.[89]

[88] See Charles Mcpherson and World Bank Group, 'National Oil Companies Evolution, Issues, Outlook National Oil Companies Workshop Current Roles and Future Prospects' (World Bank Washington D.C. 2003).
[89] Atef Suleiman n. 86.

Chapter 7 concludes the thesis. This chapter revises the proposed analytical framework by modifying and strengthening some of the arguments. Outline recommendations will aim at the improvement of the NOC towards achieving a high level of value creation. It will also suggest petroleum sector reforms. Furthermore, the chapter will identify the research contribution and limitations, while spelling out its relevance to the regulatory and economic developments in a developing petroleum-rich country, and finally, proffer further research paths.

1.7 Significance and Contribution to Knowledge

This thesis accordingly seeks to emphasise the role NOCs have to play in the petroleum industry of any state. The reason why there are various petroleum upstream policies pursued by petroleum-rich countries has not been clearly explained. The study seeks to argue that a country might own its natural resources, but does not control it. This research hopes to contribute to this niche, especially in a petroleum-rich developing country, in examining what control means and the control structures in the petroleum industry.

The study will be drawing on the experience of the upstream petroleum industry of Nigeria, one of Africa's largest petroleum producer and exporters. Norway, on the other hand, is acknowledged as one of the best run upstream petroleum industry in the world. Furthermore, the thesis will attempt to give some original contribution to the thinking of ownership and control, especially in a petroleum-rich developing state. This study seeks to emphasise the presence of resource nationalism in the oil and gas industry of the developed and developing oil and gas-rich states. In addition, the presence of resource nationalism in a select resource-rich developing state does not mean a successful utilization by the state of its resources.

Emphasis will be made on the importance of strong government institutions. In particular, the roles of NOCs in the present global petroleum industry and the possible path for a developing petroleum-rich state through its legal and fiscal framework. This research will attempt to contribute to the body of work on the phenomenon of resource nationalism, resource curse, rentier state and literature on NOCs. This study is expected to offer answers to the questions on the legal thinking behind the theory of resource nationalism, and how ownership and control affects the legal relationship in the petroleum industry. Furthermore, this work will contribute to the body of petroleum law by attempting to provide a proper reference point considering the hypothesis that states through its legal framework and the NOCs as a state tool, can properly own and control the petroleum resources of the state, and this can lead to economic development and value creation for the people of the state.

Finally, no ethical issue is expected to arise in the process of conducting the research. The study will be a library-based one, and it will be carried out by reviewing existing literature on resource nationalism, resource curse theory, rentier state and NOCs, mainly through primary and secondary sources.

CHAPTER TWO – THE ROLE OF NATIONAL OIL COMPANIES IN THE GLOBAL PETROLEUM INDUSTRY

2.1 Introduction

This chapter carries out a brief enquiry into the global petroleum industry, the industry key players, and the role National Oil Companies have played and continue to play in the growth of the industry. Thus, this sets the scene for the debate over the position NOCs currently occupy in the industry, which will be discussed in chapter 3. A review of the global petroleum industry would not be complete without a discussion of other key players in the industry. In particular, the early key players who shaped the global petroleum industry into what it is today. For some insights, one would have to go back to the history of the industry to see who played critical roles in the advancement of the industry through the ages. Only by doing that can a proper perspective of the industry be gained. The study's pick of key players in the global industry can be debated. Also, the numbers of these players are not restricted to the ones selected in this study.

This research focuses on the creation of NOCs as a tool for resource nationalism and how it solved the problem of control and ownership in the petroleum industry of some countries, but it did not work for others. One might argue that today, especially in the petroleum resource-rich developing countries that the maintenance of the relationship between the IOCs and governments is based mainly on conditions which allow the continuation of amassing wealth by the national ruling classes, and also the continued maximisation of wealth by the participating IOCs.[1] However the falling crude price has affected and changed the dynamics of the petroleum industry significantly.

Finally, in this chapter, the contextual understanding of the international petroleum industry is essential in appreciating the role of NOC in the global

[1] Carlo J Morelli, 'The Anglo-Iranian Oil Company 1945-1954: Government Business Relationships in Conflict' in Alain Beltran (ed.), *A Comparative History of National Oil Companies* (PIE-Peter Lang SA 2010) 340. See Ian Bremmer, 'The Return Of State Capitalism' (2008) 50 Survival 55, and Naná de Graaff, 'The Hybridization Of The State–Capital Nexus In The Global Energy Order' (2012) 9 Globalizations 531.

petroleum industry. There is an the appreciation of the importance of petroleum resources in an age when the push for renewable energy sources is at an all-time high.

2.2 Role of NOC in Managing Petroleum Resources

When it comes to petroleum resources, there is no doubt that the sole aim of any petroleum-rich country, whether a developed or a developing country is to maximise wealth through the exploitation of its petroleum resources. It is generally observed that this pursuit of wealth maximisation in developed countries usually leads to the people benefitting from the exploitation of these petroleum resources. In contrast, in developing countries, it is alleged that the wealth from the exploitation of petroleum resources goes to a particular group or the elites of the country.[2] Different factors can be used to arrive at this conclusion, but the most tangible factor could be the poverty level in these petroleum-rich states. Economic development, healthcare facilities and education can play critical roles in assessing the level of benefits gained from the petroleum wealth in the country.

Therefore, if a country wants to achieve the national goal of fully benefitting from the exploitation of its natural (petroleum) resources, the government has a significant, strategic and facilitating role to play. Although, in the critical sense, fully benefitting from these resources is difficult. However, acceptable levels where a more significant number of the population benefits from the exploration of these resources would be viewed as an acceptable level, and be considered a success. Therefore, this shows not only the importance of governments in the management of petroleum resources in a particular country but also the importance of these governments in the global petroleum industry.[3] Be it IOCs or NOCs, these petroleum companies do not operate in a vacuum, but within the borders and jurisdiction of countries, and countries are governed by elected governments or

[2] See Lindsay Whitfield and Lars Buur, 'The Politics Of Industrial Policy: Ruling Elites And Their Alliances' (2014) 35 Third World Quarterly 126; Naná de Graaff, 'Oil Elite Networks In A Transforming Global Oil Market' (2012) 53 International Journal of Comparative Sociology 275 and Michael W. Hansen and others, 'The Economics And Politics Of Local Content In African Extractives: Lessons From Tanzania, Uganda And Mozambique' (2015) 43 Forum for Development Studies 201.
[3] Morris Albert Adelman, *The Genie Out of The Bottle* (MIT Press 1995) 30 – 34.

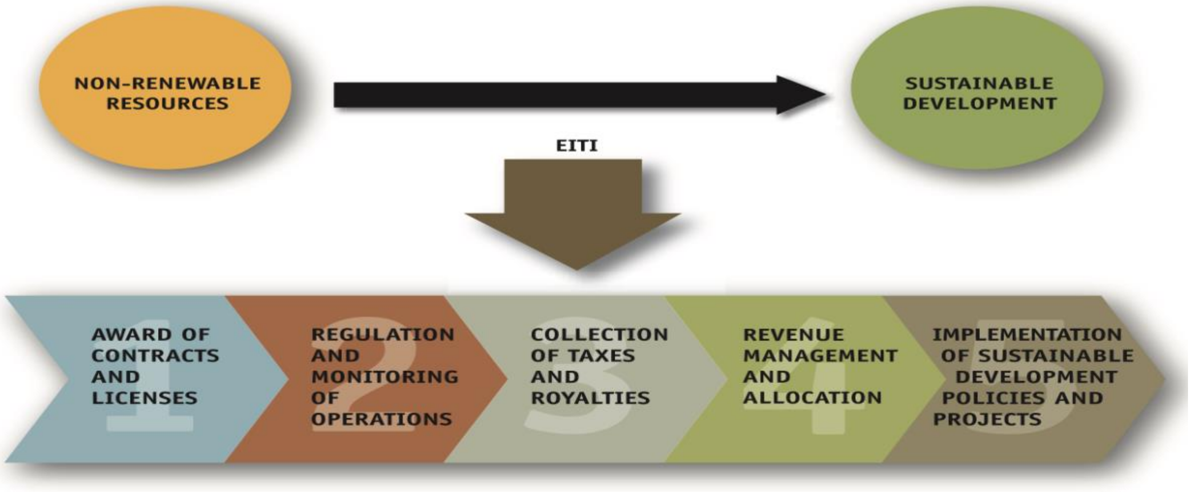
otherwise. However, the point is that the government sets the petroleum sectors frameworks and guidelines. Arguably, unlike private owners and international oil companies, governments not only look at maximising wealth as the primary objective when exploiting the petroleum resources of a state, and according to Adelman, this is the non-maximising theory.[4] However, the above assertion goes against recent events of resource nationalism[5] where governments have sought to collect higher revenue from the exploitation of their petroleum resources rather than keep these resources underground.[6]

So far, the global petroleum industry has shown that petroleum resources are vital to any state, whether developed or developing. The exploitation and management of these resources within a practical regulatory framework[7] that guides and structures the petroleum industry of every state is pivotal in the ability of the government to convert these resources to benefit the people of the state.

Given that petroleum resources are non-renewable, there needs to be efficient management of these resources. The right stewardship of the income generated from the petroleum resources has a huge potential to lift the people of the country out of poverty and contribute to sustainable social and economic development.[8] For insight into the value chain of any extractive industries, see the figure below.

Figure 2: Value Chain for Extractive Industries

[4] Ibid., 33.
[5] For example, Tanzania, Kazakhstan, Venezuela and Bolivia. See Thabit Jacob and Rasmus Hundsbæk Pedersen, 'New Resource Nationalism? Continuity And Change In Tanzania's Extractive Industries' (2018) 5 The Extractive Industries and Society 287; Natalie Koch and Tom Perreault, 'Resource Nationalism' [2018] Progress in Human Geography 1 and Ekim Arbatli, 'Resource Nationalism Revisited: A New Conceptualization In Light Of Changing Actors And Strategies In The Oil Industry' (2018) 40 Energy Research & Social Science 101.
[6] Morris Albert Adelman (n 3) 33-34.
[7] Regulatory frameworks usually emanates from the constitutional provisions of the state to legislation, contracts and agreements that define the rules, procedures and regulations that guide the petroleum resources sector or the oil and gas industry of the State. See Evelyn Dietsche, Sector Legal Frameworks and Resource Property Rights in Wojciech Ostrowski and Roland Dannreuther (eds), *Global Resources Conflict And Cooperation* (Palgrave Macmillan 2013) 159-184.
[8] Eleodoro Mayorga Alba, 'Extractive Industries Value Chain' [2009] Extractive Industries for Development Series - The World Bank Working Paper 125.



Source: Alba, Extractive Industries for Development.[9]

Therefore, as petroleum resources are not renewable, the need for careful management of these resources arises, and attention needs to be paid to every sector of the value chain. The onus is on the government to ensure this through the country's petroleum sector regulatory and legal regime. Academics such as Bentham remarked that in the global petroleum industry, petroleum development and production take place under many legal systems.[10] Thus, regardless of the particular provisions of a legal regime, petroleum exploitation usually goes on, and to consider a regulatory framework as sufficient will arguably rely on the success of the petroleum sector, the level of revenue generated from the petroleum resources and most importantly, the economic development that is achieved through the exploitation of these resources. This, presumably, will be considered value creation through these resources.

In addition, it is somewhat accepted by petroleum industry observers that governments use NOCs as a tool in achieving beneficial management and exploitation of the natural resources for the state; also the use of policies and regulations in achieving these goals is usually contingent on the objectives the

[9] Ibid.
[10] R.W. Bentham, 'The International Legal Structure of Petroleum Exploration' in Judith Rees and P. R Odell (eds), *The International Oil Industry* (Macmillan 1987) 62-66.

governments are looking to achieve.[11] Furthermore, the major theme of this study is targeted at the regulatory framework used by governments in marshalling their NOCs. According to some, NOCs have demonstrated that they can reach the levels attained by IOCs and above, the creation of public revenues and acting as stewards for the natural resource industry. On the contrary if not properly managed this can be a medium by which a nation's resources can be wasted, as demonstrated by Petrobras of Brazil.[12]

As a natural resource, petroleum resources are vital to any NOC, as this is the single resource which most NOCs are established to deal with. Amidst the energy transition arguments from fossil fuels to renewable energy, there seems to be a consensus that petroleum still has a role to play for the foreseeable future.[13] According to Marcel, NOC has a role to play in this transition and cited Equinor as one NOC investing in renewable energy.[14] Could this investment planned by Equinor be geo-political or public relations, aimed at joining the recent trend of renewable energy campaign, on the surface but still engaging in petroleum resource production, as a recent argument by Mills, posits the continued relevance of petroleum resources to the worlds energy demand.[15]

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[11] Silvana Tordo, Brandon S Tracy and Noora Arfaa, *National Oil Companies And Value Creation* (World Bank 2011) xi-xiiii. See also María José Paz Antolín and Juan Manuel Ramírez Cendrero, 'How Important Are National Companies For Oil And Gas Sector Performance? Lessons From The Bolivia And Brazil Case Studies' (2013) 61 Energy Policy 707 and Patrick R.P. Heller, Paasha Mahdavi and Johannes Schreuder, 'Reforming National Oil Companies: Nine Recommendations' [2014] Natural Resource Governance Institute <https://resourcegovernance.org/sites/default/files/documents/nrgi_9recs_eng_v3.pdf> accessed 8 November 2018.

[12] Can we buy or rent the IOC's technical expertise rather than surrendering control over our oil and gas resources to an IOC are the question that some of the NOCs are asking. See Andrew C. Inkpen and Michael H Moffett, *The global oil & gas industry: Management, strategy and finance* (PennWell Books 2011) 63; Patrick R P Heller, 'Doubling Down: National Oil Companies as Instruments of Risk and Reward' (2017) 81 UNU-WIDER <https://www.wider.unu.edu/sites/default/files/wp2017-81.pdf> accessed 14 March 2018 and David R Mares, 'Resource Nationalism and Energy Security in Latin America: Implications for Global Oil Supplies' (*Scholarship.rice.edu*, 2010) <https://scholarship.rice.edu/bitstream/handle/1911/91400/EF-pub-MaresResourceNationalismWorkPaper-012010.pdf?sequence=1> accessed 4 March 2018.

[13] Tina Hunter, 'Redefining Energy Security: The New Prize in a Time of Arctic Petroleum Resources and Technological Development' in Slawomir Raszewski (ed), *The International Political Economy Of Oil And Gas* (Palgrave Macmillan 2018) 12-15. See also, 'The Oil And Gas Industry In Energy Transition' (*IEA - World Energy Outlook Special Report*, 2020) <https://www.iea.org/reports/the-oil-and-gas-industry-in-energy-transitions> accessed 5 March 2020, and Anthony J. Venables, 'Using Natural Resources For Development: Why Has It Proven So Difficult?' (2016) 30 Journal of Economic Perspectives 161.

[14] See Valérie Marcel, 'National Oil Companies Of The Future' (2019) 95 Annales des Mines-Responsabilité et Environnement <https://www.cairn.info/revue-responsabilite-et-environnement-2019-3-page-133.htm.> accessed 27 August 2019.

[15] For Mark Mills arguments on the difficulties facing renewable energy's scalability and demand. See Mark P. Mills, '41 Inconvenient Truths On The "New Energy Economy"' (*Foundation for Economic Education FEE*, 2019) <https://fee.org/articles/41-inconvenient-truths-on-the-new-energy-economy//amp?__twitter_impression=true> accessed 6 November 2019.

The importance of petroleum in today's world cannot be denied even in the wake of global warming campaigns, and the rise of renewable energy.[16] Many organisations like OPEC, believe that petroleum will continue to play a crucial global role in modern living,[17] Moreover, it is commonly accepted that petroleum has always been vital to the economic growth of nations, at least since it took centre stage as the primary energy source for the government's agenda of industrialisation.[18] According to Tugendhat and Hamilton, more than any other traded commodity, our civilisation was contingent on petroleum.[19] This in turn, has made petroleum resources the topic of most significant international contracts and disputes.[20]

Therefore, it can still be argued that at present, petroleum is very relevant to modern living. For example, Doric and Dimovski expressed that daily, petroleum or petroleum products make up the essential part of products we use.[21] Natural gas and oil for many decades have grown to be the primary global energy sources. Further, according to Yates, the global petroleum industry is arguably the biggest and widely integrated of all global commodity networks, and is vital to the global economy.[22] One might, therefore, argue that until the demand for petroleum resources reduces, this particular natural resource will continue to lead the energy demand and supply path of world energy. At the moment, cheap and easily accessible energy is still a significant factor for world energy and discussion is on the topic of the energy mix.[23] Furthermore, van der Ploeg commented that petroleum would continue to be used for decades, although the price of the

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[16] Thijs van de Graaf, *The Politics And Institutions Of Global Energy Governance* (Palgrave Macmillan 2013) 8.
[17] See 'OPEC: Keynote Address By OPEC Secretary-General At The 3Rd Dundee Energy Forum' (*Opec.org*, 2019) <https://www.opec.org/opec_web/en/press_room/5555.htm> accessed 25 June 2019 and
'OPEC: Petroleum Will Still Be The Major Energy Resource In The 21St Century' (*Opec.org*, 2019) <https://www.opec.org/opec_web/en/press_room/902.htm> accessed 25 June 2019.
[18] See, Leslie E Grayson, *National Oil Companies* (John Wiley & Sons Ltd 1981) 1-3. See also Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 11) 22. See also David Humphreys, 'Minerals: Industry History and Fault Lines of Conflict' in Wojciech Ostrowski and Roland Dannreuther (eds), *Global Resources Conflict And Cooperation* (Palgrave Macmillan 2013) 33-34.
[19] Christopher Tugendhat and Adrian Hamilton, *Oil The Biggest Business* (Eyre Methuen Ltd 1975) 1.
[20] See A Timothy Martin, 'Model Contracts: A Survey Of The Global Petroleum Industry' (2004) 22 Journal of Energy & Natural Resources Law 281.
[21] See Barbara Doric and Vlado Dimovski, 'Managing Petroleum Sector Performance – A Sustainable Administrative Design' (2018) 31 Economic Research-Ekonomska Istraživanja 119.
[22] Douglas A. Yates, *The Rentier State In Africa: Oil Rent Dependency And Neocolonialism In The Republic Of Gabon* (Africa World Press 1996) 1.
[23] See Ken Koyama, 'A Japanese Perspective On International Energy Landscape', *3rd Dundee Energy Forum* (IEEJ 2019) <https://eneken.ieej.or.jp/data/8474.pdf> accessed 28 January 2020.

resources will be lower.[24] Hence the need for the petroleum-rich states to be prepared for this possibility, and plan accordingly.

This preparation by petroleum-rich states is expected to be political planning in the first instance. Unlike any other traded commodity, petroleum resources have been shown to be a highly political one.[25] It is therefore not surprising that the global petroleum industry has been politicised over the years, and many academics, including Edward Morse, affirmed this point:

> Rather than keeping oil and politics on their separate tracks, the nations of the world have found ways to bind them together.[26]

As the petroleum resources affect the day-to-day activity of millions of people, and as earlier mentioned, these resources fall within the purview of the governments where these resources are discovered. Petroleum resource is relevant to a country and the global industry is motivated by the political interference of governments because petroleum resources are vital to almost every kind of human activity and general welfare, at least for the foreseeable future.[27] Markus remarked that one could not separate politics from the oil and gas business.[28] Furthermore, the question of national security has been considered by the way states view their petroleum resource supplies or petroleum resource exports, consequently creating an international petroleum marketplace with a

[24] Frederick van der Ploeg, 'Fossil Fuel Producers Under Threat' (2016) 32 Oxford Review of Economic Policy 206.
[25] See Anjli Raval, Derek Brower and David Sheppard, 'Russia Breaks Opec Oil Alliance As It Takes On US Shale' (*Financial Times*, 2020) <https://www.ft.com/content/c1b899ec-5fe5-11ea-b0ab-339c2307bcd4> accessed 12 March 2020; Ilya Arkhipov and others, 'How Putin Spurned The Saudis To Start A War On America’S Shale Oil Industry' (*Los Angeles Times*, 2020) <https://www.latimes.com/business/story/2020-03-08/oil-price-war> accessed 12 March 2020; Irina Slav, 'Saudi Arabia Prepares To Flood The Market With Even More Oil' (*OilPrice*, 2020) <https://oilprice.com/Energy/Crude-Oil/Saudi-Arabia-Prepares-To-Flood-The-Market-With-Even-More-Oil.html> accessed 12 March 2020; Tsvetana Paraskova, 'Oil Price War Escalates As OPEC's No.3 Boosts Production' (*OilPrice*, 2020) <https://oilprice.com/Energy/Crude-Oil/Oil-Price-War-Escalates-As-OPECs-No3-Boosts-Production.html> accessed 12 March 2020, and Nick Cunningham, 'U.S. Shale Collapse Will Lead To Higher Oil Prices' (*OilPrice*, 2020) <https://oilprice.com/Energy/Oil-Prices/US-Shale-Collapse-Will-Lead-To-Higher-Oil-Prices.html> accessed 12 March 2020.
[26] Edward L. Morse, 'A New Political Economy Of Oil?' (1999) 53 Journal of International Affairs 1. See also, Matt Huber, 'Resource Geography II: What Makes Resources Political?' [2018] Progress in Human Geography 1.
[27] Dag Harald Claes, ‘Cooperation and Conflict in Oil and Gas Markets’ in Andreas Goldthau, *The Handbook of Global Energy Policy* (John Wiley & Sons Inc 2013) 177. See also, Thomas L. Friedman, 'The First Law Of Petropolitics' (*Foreign Policy*, 2009) <https://foreignpolicy.com/2009/10/16/the-first-law-of-petropolitics/> accessed 2 August 2019.
[28] Ustina Markus, *Oil and Gas* (Palgrave, Macmillan Education 2015) 1.

curious blend of profit-driven venture that is merged with national security.[29] More often than not, the organisation used by government for achieving these goals are the nation's NOC. Conversely, this situation is different in the United States of America as the liberal market model is where the country has no state entity to exploit these resources but, the exploration and production of petroleum are left in the hands of private petroleum companies.

The importance of energy, whether coal, crude oil, wind power, hydropower, solar power or gas, cannot be overemphasised in the evolution of modern-day living. Arguably, human development and advancement since primaeval times have always had energy as the key driver.[30] Petroleum is the life force of industrial civilization according to Matutinović; also petroleum fuels the transport system, aids highly productive agriculture, is the main industrial component in pharmaceuticals, plastics, and computer chips.[31] Petroleum has evidenced over the years various forms of usage, especially in modern living, so when arguments for the push for renewable energy arise, one has to consider the various components of this singular resource.

Following the above, it is self-evident that there cannot be industrialisation without energy. Therefore, energy is the foundation for industrialisation, although the looming peak oil production, maximum demand and climate change, at the moment questions this development model, just as the developing countries aspire to join the wealthy industrialised countries in the present situation of cheap and abundant fossil fuels.[32] Doric and Dimovski claim that they are convinced that the manner in which countries like the United States, Canada, and Western European countries achieved industrialisation through petroleum, could lead to similar positive, and sustainable economic development, though it may be predicated on the continued demand, relevance and life of petroleum resources.[33]

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[29] Ibid., 1.

[30] Gilles Carbonnier and Fritz Brugger, the Development Nexus of Global Energy in Andreas Goldthau, *The Handbook of Global Energy Policy* (John Wiley & Sons Inc 2013) 64. See also, Charles Mcpherson and World Bank Group, 'National Oil Companies Evolution, Issues, Outlook National Oil Companies Workshop Current Roles and Future Prospects' (World Bank Washington D.C. 2003); Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 11) xi and Cyril I. Obi, 'The Petroleum Industry: A Paradox Or (Sp)Oiler Of Development?' (2010) 28 Journal of Contemporary African Studies 443.

[31] See Igor Matutinović, 'Oil And The Political Economy Of Energy' (2009) 37 Energy Policy 4251.

[32] Gilles Carbonnier and Fritz Brugger in Andreas Goldthau (n 30) 72 – 75.

[33] Barbara Doric and Vlado Dimovski, n 21.

Be that as it may, the present-day push for renewable energy goes against the drive for the use of petroleum as a major source of energy and subsequently any form of industrialisation by any country. It is important to note that today the majority of the discovery of enormous petroleum reserves are within the territories of developing countries. As a result, it has been suggested that for these developing countries to achieve social and economic progress through these resources today, they must take into account their petroleum governance and planning alongside climate change and its policies in order to mitigate having stranded assets.[34]

Today the drive is towards renewable energy due to the crisis scenarios illustrated by the 'peak oil' theory, peak demand and the assumption that oil and gas prices will continue to rise, but today oil and gas prices are low. If it continues renewables will be less competitive, which in turn will make governments reduce its support for renewable energy.[35] Since 1900 oil has been indispensable to the modern economy, from transportation and the exchange of goods, industrial specialisation, and military power which was seen in the outcomes of two world wars.[36] For instance, historically when it comes to war, oil and gas has always been strategic for the warring parties, because they would commit themselves to seize oil-rich areas and deny enemies access to the oil areas, as was evidenced with Hitler's strategy to infiltrate the Caucasus to control Baku's oil region and the Japanese takeover of oilfields in Borneo and Sumatra.[37] Churchill relied on oil from Persia as fuel for the British naval fleet to fight the Germans during the First World War.[38] These and many more present-day examples show that oil has always been the winning card in wars, from ground attacks and occupation, air campaigns and

[34] See Daria Ivleva and others, 'From Riches To Rags? – Stranded Assets And The Governance Implications For The Fossil Fuel Sector' (*ECC Library*, 2018) <https://library.ecc-platform.org/publications/riches-rags-–-stranded-assets-and-governance-implications-fossil-fuel-sector> accessed 27 February 2020.
[35] Øystein Noreng, 'Global Resource Scramble and New Energy Frontiers' in Andreas Goldthau (n 14) 171. See also, Ralf Boscheck, 'The Governance Of Oil Supply: An Institutional Perspective On NOC Control And The Questions It Poses' (2007) 1 International Journal of Energy Sector Management 366 and Bassam Fattouh, Rahmatallah Poudineh and Rob West, 'The Rise Of Renewables And Energy Transition: What Adaptation Strategy For Oil Companies And Oil-Exporting Countries?' [2018] The Oxford Institute for Energy Studies MEP 19.
[36] Øystein Noreng in Andreas Goldthau (n 35) 159.
[37] See Leonardo Maugeri, *Age of Oil: The Mythology, History, And Future of The World's Most Controversial Resource* (Praeger 2006) 51 – 61, 63 -75.
[38] See James C Humes, *Churchill: The Prophetic Statesman* (Regnery History 2012) 61 - 64. See also, B. S Mcbeth, *British Oil Policy 1919-1939* (Frank Cass 1985) 9 - 12.

naval battles.[39] Present-day examples include ISIS taking over oilfields in Syria and the US-UK invasion of Iraq on the grounds of the presence of WMDs.[40] Furthermore, the importance of petroleum to Western development was visible in the manner in which the democratic government of Iran under Mossadegh was overthrown by a coup, all in the name of gaining access to petroleum, with the CIA and British Intelligence involvement well documented.[41]

Therefore, following the history of petroleum, and the attempts to predict the importance and trajectory of petroleum to the modern-day world, the view of this study is that petroleum will continue to be very vital to the modern-day world for the foreseeable future, consequently strengthening the relevance of NOCs in the global petroleum industry.

2.3 The Historical Shaping of NOCs

There have been various accounts of the history of petroleum. Petroleum historians have not agreed on where oil was first discovered, whether it be in 1859 Titusville, Pennsylvania in the United States or Bibi-Aybat near Baku, which was then part of the Russian Empire in 1846.[42] Although a historical perspective is essential to this study, the work will not be engaging in a contentious discussion of different accounts of the history of oil. The following section briefly outlines the significant events that have shaped the global petroleum industry, which in extent led to the establishment of NOCs by various countries.

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[39] See Morgan Downey, *Oil 101* (Wooden Table Press 2009) 10 – 11; Leslie E Grayson (n 18) 197 – 211 and Edward L. Morse, 'The Coming Oil Revolution' (1990) 69 Foreign Affairs 36.

[40] See Ellen Loanes, 'ISIS Is Staging Attacks In Symbolically Important Places To Send A Message: We're Back' (*Business Insider*, 2019) <https://www.businessinsider.com/isis-oil-field-and-raqqa-attacks-send-a-message-2019-10?r=US&IR=T> accessed 4 February 2020, and Erika Solomon, Robin Kwong and Steven Bernard, 'Syria Oil Map: The Journey Of A Barrel Of Isis Oil' (*Financial Times*, 2016) <https://ig.ft.com/sites/2015/isis-oil/> accessed 4 February 2020.

[41] See TehranTimes, 'Jack Straw Says Iranians Have Good Cause To Call Britain 'Cunning, Colonial Fox' (2019) <https://www.tehrantimes.com/news/438423/Jack-Straw-says-Iranians-have-good-cause-to-call-Britain-cunning> accessed 23 July 2019.

[42] See Gawdat Bahgat, 'Russia's Oil And Gas Policy' (2010) 34 OPEC Energy Review 162 – 183.
For detailed accounts of the oil and gas industry see, Daniel Yergin, *The Prize* (Simon & Schuster 2012); Leonardo Maugeri (n 37); Valérie Marcel and John V Mitchell, *Oil Titans: National Oil Companies In The Middle East* (Chatham House 2006), and Bernard Taverne, *An Introduction To The Regulation Of The Petroleum Industry* (Graham & Trotman 1994).

Industry commentators such as Downey, assert that the modern oil industry began due to the shortage of whales because until 1859 most people used animal fat in the form of beeswax candles or whale oil for illumination.[43] Downey's account goes further to state that crude oil was used to produce a flame-throwing weapon known as Greek fire as far back as 600AD by the Byzantines.[44] In 1000BC China refined and used crude oil for lamp and heating oil, although in small quantity.[45] In the Middle East in 4000BC crude oil that flowed to the surface was used as adhesive in the construction of roads and buildings, and also for waterproofing boats according to Downey's account.[46]

In the 1840s in Pennsylvania Samuel Kier an owner of a salt mine marketed oil he thought was waste from his mines as medicine after he noticed that the local Seneca Indians were using it as a medicine.[47] Oil was struck at a depth of 69.5 feet on 27 August 1859, in a village near Titusville in north-western Pennsylvania.[48] Charles More's account of the early years of the international petroleum industry took a British outlook of the industry.[49] Where the first commercial drilling of oil took place has always been contested, from scattered accounts of subsurface drilling in places like France, Japan, Azerbaijan and some other Asian countries.[50] Maugeri asserted that the first significant oil revolution happened in 1859 Pennsylvania, United States of America, when Edwin Drake first succeeded in extracting oil with the aid of a drilling machine coupled with his epoch-making experiment of oil extraction. This was regarded as the birth of the oil industry.[51] This account was supported in the landmark work of Daniel Yergin on the global petroleum industry.[52]

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[43] Morgan Downey (n 39) 1 – 18.
[44] Ibid., 1-18.
[45] Ibid., 1-18.
[46] Ibid., 1-18.
[47] As recorded in the 1840s, crude oil by-products continued to be used as a source of either medicinal rock oil until the discovery of Kerosene, this by-product of crude oil was documented as the product that drove the demand of oil. The relentless drilling action of Edwin Drake gave rise to the American oil industry, which led to the demand for kerosene and diesel. After these activities in Pennsylvania followed the gradual consolidation and monopolisation of the industry by John D Rockefeller. See Morgan Downey (n 39) 1 – 18.
[48] Bernard Taverne (n 42) 19 – 44 and Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 11) 15.
[49] See Charles More, *Black Gold: Britain And Oil In The Twentieth Century* (Continuum 2009) 1 - 46.
[50] See Leonardo Maugeri (n 37) 3 – 5. See also, Paul Stevens, 'A History of the International Oil Industry' in Wojciech Ostrowski and Roland Dannreuther (eds), *Global Resources Conflict And Cooperation* (Palgrave Macmillan 2013) 14 and Paul Stevens, 'The History of Oil' [2010] POLINARES Working Paper n 3.
[51] Leonardo Maugeri (n 37) 3 – 5.
[52] See Daniel Yergin n 42.

Various industry commentators claimed that the United States was arguably the world's only source of crude and refined products for more than 20 years, and this industrial strength of the United States bore the name of John D. Rockefeller who held the controlling stake in Standard Oil Trust.[53] Standard Oil Trust was established in 1879 with thirty affiliated companies.[54] His grand design and strategy were to control every sphere of the oil market, from upstream to downstream, and by so doing, suppress competition.[55] Remarkably, in the early 1880s, Rockefeller succeeded in implementing his monopolistic plan, and he controlled about 90 percent of the U.S. oil market, and this was when the U.S. accounted for 85 percent of the world's crude oil production and refining.[56] Needless to say, the amount of wealth amassed, as a result, made him an influential figure in the United States of America and globally too.

Rockefeller's dominance over the industry continued until the mid-1880s when competition emerged from Russia, (although the production in Russia was concentrated around Baku, in Azerbaijan) led by the Nobel brothers,[57] Ludwig and Robert.[58] Identically as John D. Rockefeller led the Western Pennsylvania, U.S.A. dominance in the oil industry, the Nobel brothers led the Caucasus region of tsarist Russia, to become the world's second oil producer.[59] Furthermore, following Russian production and with the financial support of the French side of the Rothschild family who invested heavily in the Russian oil market, paving the way for a key pantheon in the global petroleum industry. Marcus Samuel and his brother founded Shell with a strategic commercial vision of constructing sophisticated oil tankers. The Royal Dutch Company was incorporated in 1890.[60]

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[53] Leonardo Maugeri (n 37) 10 – 18; Daniel Yergin (n 42) 19 – 39; Christopher Tugendhat and Adrian Hamilton, (n 19) 13-33 and Frederick van der Ploeg, 'Natural Resources: Curse Or Blessing?' (2011) 49 Journal of Economic Literature 366.

[54] Silvana Tordo, Brandon S Tracy and Noora Arfaa, (n 11) 15.

[55] See Leonardo Maugeri (n 37) 3 – 11; Daniel Yergin (n 42) 21 – 26 and Silvana Tordo, Brandon S Tracy and Noora Arfaa, (n 11) 15-16.

[56] Ibid.

[57] See Brita Åsbrink, 'Ludvig Nobel Enters The Fight For Oil - The Branobel History' (*The Branobel History*, 2001) <http://www.branobelhistory.com/themes/the-nobel-brothers/ludvig-nobel-enters-the-fight-for-oil/> accessed 17 June 2019 and 'Robert And Ludvig Nobel And The Oil Industry In Russia' (*The Nobel Prize Organisation*, 2019) <https://www.nobelprize.org/alfred-nobel/robert-and-ludvig-nobel-and-the-oil-industry-in-russia/> accessed 17 June 2019.

[58] See Leonardo Maugeri (n 37) 10 – 18 and Daniel Yergin (n 42) 40 – 48, 55-57.

[59] Ibid.

[60] Leonardo Maugeri (n 37) 10 – 18 and Daniel Yergin (n 42) 40 – 48, 55-57. See also, John P. Rafferty (editor), 'Royal Dutch Shell PLC | International Corporation' (*Encyclopedia Britannica*, 2019) <https://www.britannica.com/topic/Royal-Dutch-Shell-PLC#ref14723> accessed 17 June 2019 and

Consequently, the emergence of other global players in the oil industry led to the stronghold of Standard Oil over the global petroleum industry being significantly weakened, and even in the American oil market local competitors started to emerge and challenge the position of Standard Oil, as oil was discovered in various parts of America.[61]

The global petroleum industry scene has since changed, not only because of competition, and global players or because of the increase of Chinese, or Asian demand but also by the rise of unusual hybrids of great new oil and gas companies: mostly state-owned with a proportion of their equity publicly traded, for example Petrobras, Rosneft, Lukoil and CNPC.[62] Conceivably, these events gave birth to a somewhat competitive global petroleum market. However, it is still contended that monopoly and oligopoly remained the central doctrine that guided the oil industry's behaviour, albeit echoing Rockefeller's curse on free competition in the petroleum business.[63] Contentiously, this could be the reason and drive by petroleum companies, especially IOCs to book reserves by any means, and has been evidenced by the number of illegal payment cases to government officials to ensure that exploration and production contracts are awarded.[64]

Whatever the hypothesis for oil formation is or will be, there are current classification systems used in assessing reserves which were devised by the World Petroleum Congress (WPC) and the Society of Petroleum Engineers (SPE), who outlined proven reserves, probable reserves and possible reserves as the three

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'Company History: Shell From 1833 - 1945' (*Shell Global*, 2019) <https://www.shell.com/about-us/our-heritage/our-company-history.html> accessed 17 June 2019.

[61] Leonardo Maugeri (n 37) 10 – 18 and Daniel Yergin (n 42) 64 – 65. See also, Morgan Downey (n 39) 9.

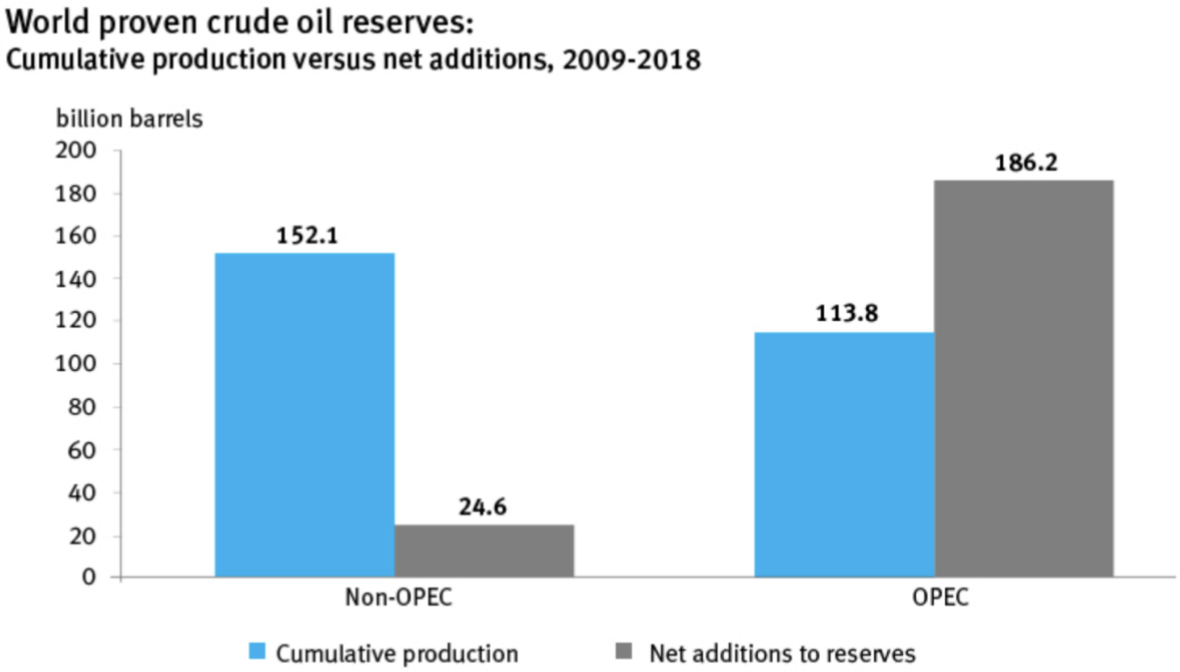
[62] Michael Watts, 'Oil Talk' (2013) 44 Development and Change 1013 – 1026.

[63] For most of the 20th century, these companies dominated the international oil and gas industry. See Leonardo Maugeri (n 37) 10 – 18 and Valérie Marcel and John V Mitchell, (n 42) *9*.

[64] For example, see the oil scandals in Brazil and Angola: Jonathan Watts, 'Operation Car Wash: The Biggest Corruption Scandal Ever?' (*the Guardian*, 2017) <https://www.theguardian.com/world/2017/jun/01/brazil-operation-car-wash-is-this-the-biggest-corruption-scandal-in-history> accessed 30 January 2020. See also, Daniel Gallas, 'Brazil's Odebrecht Corruption Scandal Explained' (*BBC News*, 2019) <https://www.bbc.co.uk/news/business-39194395> accessed 30 January 2020; Cristina Krippahl, 'Luanda Leaks Point To International Complicity As Isabel Dos Santos Faces Scrutiny | DW | 20.01.2020' (*DW.COM*, 2020) <https://www.dw.com/en/luanda-leaks-point-to-international-complicity-as-isabel-dos-santos-faces-scrutiny/a-52071069> accessed 30 January 2020, and Philemon M. Nsongan, 'The Dos Santos Scandal, A Test For The Fight Against Corruption In Angola | Africanews' (*Africanews*, 2020) <https://www.africanews.com/2020/01/25/the-dos-santos-scandal-a-test-for-the-fight-against-corruption-in-angola//> accessed 30 January 2020.

categories of assessing the level of natural resources.[65] It is also important to note that all definitions of reserves are based on estimates and beyond 'proved' reserves are 'probable' or contingent reserves, here oil or gas has been identified. There is a 50% or higher probability that the benchmark of proof will be reached.[66] OPEC's figure on the world's proven reserves are stated on the graph:

Figure 3: World Proven Crude Oil Reserves



Source: OPEC World proven crude oil reserves.[67]

Today, figures attached to reserves have been revised, especially by OPEC members during the 1980s. The reason for these upward revisions was viewed then as a struggle to obtain higher production quotas within the organisation. At the same time, this might be true, Maugeri asserted that the explanation for these

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[65] See Leonardo Maugeri (n 37) 212. See also, 'Oil Reserve Definitions' (*Bp.com*, 2018) <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/statistical-review/bp-stats-review-2019-oil-reserve-definitions.pdf> accessed 29 December 2019.

[66] John Mitchell, Valerie Marcel and Beth Mitchell, 'What Next For The Oil And Gas Industry' (*Chatham House*, 2012) <https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Energy,%20Environment%20and%20Development/1012pr_oilgas.pdf> accessed 10 February 2018. See also, Jessica Dillinger, 'The World's Largest Oil Reserves By Country' (*WorldAtlas*, 2018) <https://www.worldatlas.com/articles/the-world-s-largest-oil-reserves-by-country.html> accessed 13 December 2018.
Also, on the difficult task of assessing the world oil reserves see, Planete Energies, 'Oil Reserves In The World' (*Planète Énergies*, 2018) <https://www.planete-energies.com/en/medias/op-ed-articles/oil-reserves-world> accessed 13 December 2018.

[67] See, 'OPEC: World Proven Crude Oil Reserves: Cumulative Production Versus Net Additions' (*OPEC*, 2020) <https://www.opec.org/opec_web/en/data_graphs/331.htm> accessed 27 May 2020.

upward revisions of reserve figures are far more complicated than the given explanation.[68] Furthermore, these revisions occurred within OPEC countries that nationalised their natural resources, and these resources were previously under the control of the IOCs (seven sisters); accordingly, the theory which follows was that the IOCs manipulated the reserve figures to support their self-interest in controlling oil output to avoid overproduction in an already flooded market, a policy that drove them to underestimate the official reserves.[69] Although this may sound like another conspiracy against the IOCs, needless to say, their track record in the global petroleum industry serves as evidence of the many claims against them.

It is an accepted fact that petroleum resources are finite and at the same time, it is also a fact that no one knows how finite these natural resources are.[70] For example, according to Van de Graaf, the theories of the organic origin and inorganic origin of petroleum that has been put forward has continuously been a debated issue amongst scientists and geologists till now.[71] It is worth to raising a caveat that the search for alternative energy today should be done with caution. It must be remembered that in the late 1970s with the perception of ever-rising oil prices, many countries decided to choose nuclear power, then came the mid-1980s when the oil price fell, and the Three Mile Island and Chernobyl accidents caused a decrease in nuclear power investment.[72]

Furthermore, many countries depend on petroleum resources for diverse reasons, this makes this natural resource the world’s most sought-after commodity, and its impact on a global scale is evidenced.[73] Petroleum has become the primary global commodity, unequalled in importance and often used to measure the health of globalisation worldwide,[74] although the world is looking to move away from the

[68] See Leonardo Maugeri (n 37) 219 – 232.
[69] Ibid., 229-232.
[70] See Leonardo Maugeri (n 37) 207 – 212.
[71] Thijs van de Graaf (n 12) 1.
[72] Øystein Noreng in Andreas Goldthau (n 35) 171. See also, Richard Gray, 'The True Toll Of The Chernobyl Disaster' (*Bbc.com*, 2019) <https://www.bbc.com/future/article/20190725-will-we-ever-know-chernobyls-true-death-toll> accessed 30 January 2020 and Kimberly Amaded, 'Did The Three Mile Island Nuclear Accident Help Kill Nuclear Power?' (*The Balance*, 2020) <https://www.thebalance.com/three-mile-island-nuclear-accident-facts-impact-today-3306337> accessed 30 January 2020.
[73] Michael L. Ross, 'Blood Barrels - Why Oil Wealth Fuels Conflict' (2008) 87 Foreign Affairs.
[74] Rawi Abdelal and Adam Segal, 'Has Globalization Passed Its Peak' (2007) 86 Foreign Affairs <http://heinonline.org/HOL/PL?key=CTHGq> accessed 24 January 2018. See also Seyed Kamran Bagheri and

use of hydrocarbons. In addition, with all the renewable energy push, it is significant to state that modern economic development was fuelled by petroleum which rapidly became a substitute for coal.[75] Consequently, it was the primary energy source for the industrial revolution of the late 1950s to 1973, when the number of automobiles and other passenger vehicles rose from 53 million to nearly 250 million.[76] The importance of petroleum in today's modern development did not end there, the advancement of civil aviation, the natural gas-based revolution of petrochemicals to the modern-day plastics have changed daily human life.

Historically, IOCs have dominated the global petroleum industry until recently. For instance, looking back at the global petroleum industry's beginnings, albeit, not fully structured as it is today, was heavily dominated by IOCs. For example, it was true from the early 1880s Standard Oil, Nobel, the Rothschilds oil properties, the Anglo-Persian Oil Company and Royal Dutch (Shell) who controlled the global petroleum industry. Remarkably, this control was achieved by a few American and European oil companies.[77] These IOCs dubbed the 'Seven Sisters'[78] enjoyed favourable concessions for a long period, until it was challenged in Latin America in 1938 when Mexico nationalised its petroleum industry.[79] Some of the characteristics and strategies of IOCs can be linked to the earlier times of the industry in the United States of America.[80] Potentially, the fight to dethrone the

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Alberto Di Minin, 'The Changing Competitive Landscape Of The Global Upstream Petroleum Industry' (2015) 8 The Journal of World Energy Law & Business 1.

[75] For example, the diverse components of petroleum include: Polyvinyl chloride (1927), polystyrene (1935), and polyethene (1940), these all became commercially available in the late 1940s and were amongst the first and most famous of the plastics derived from oil and gas. Furthermore, primary derivatives from petroleum include; carbon black, synthesis gas, methane, ethane, propane, butane, benzene, toluene, xylenes and naphthalene.

See Leonardo Maugeri (n 37) 76 – 91. See also Peter R. Odell, 'The World Petroleum Market: the Current Situation and Prospects' in Khan (ed), *Petroleum Resources And Development* (Belhaven 1988) 15-16 and Christopher Tugendhat and Adrian Hamilton, (n 19) 3, 121-123.

[76] Ibid.

[77] See Daniel Yergin (n 42); Valérie Marcel and John V Mitchell (n 42) 16; Andrew C. Inkpen and Michael H Moffett (n 12) 63; Paul Stevens, n 49; Thijs van de Graaf (n 16) 45-47.

[78] See Daniel Yergin (n. 41) 485; Thijs van de Graaf (n 16) 47; Valérie Marcel and John V Mitchell (n 41) 19; T. Lind and G. A MacKay, *Norwegian Oil Policies* (Hurst 1980) 7-8; Anthony Sampson, *The Seven Sisters: The Great Oil Companies And The World They Made* (Hodder and Stoughton 1993) 32.

Seven Sisters also called 'supermajors'. See Alexey Bereznoy, 'Catching-Up With Supermajors: The Technology Factor In Building The Competitive Power Of National Oil Companies From Developing Economies' [2018] Industry and Innovation 1.

[79] Valérie Marcel and John V Mitchell (n 41) 20. See also, Ernest E Smith and John S Dzienkowski, 'A Fifty-Year Perspective on World Petroleum Arrangements' (University of Texas at Austin School of Law Publications 1989) <http://www.stephankinsella.com/wp-content/uploads/texts/smith-dzienkowski_fifty.pdf> accessed 4 March 2018.

[80] Robert F. Buchanan and Syed T. Anwar, 'Resource Nationalism and the Changing Business Model for Global Oil' (2009) 10 The Journal of World Investment & Trade

oil majors started by Enrico Mattei with his attack on the then oil majors he called "the cartel". He coined the term "Sette Sorrelle," meaning the Seven Sisters.[81] The "Seven Sisters" were, Standard Oil of New Jersey (American, future Exxon Corp.), Royal Dutch-Shell (Anglo-Dutch), the Anglo-Iranian Oil Company (English, later British Petroleum), Socony-Mobil Oil (American), Gulf (American) and SOCAL-Standard Oil of California (American).[82]

Be that as it may, the present situation in the global petroleum industry according to Carola Hoyos of Financial Times, is that the most influential energy companies are now NOCs, which are now called the "new seven sisters".[83] In addition, Watts stated that this changing landscape of the petroleum industry was as vital as OPEC and the developing countries nationalist revolution, that changed the operating environment of the then oil majors (seven sisters), which gave rise to NOCs.[84] Basil and Lee, in their work, also acknowledged that the emergence of OPEC shaped the structure of the international petroleum industry.[85]

Consequently, as many countries continue to discover crude oil within their territory, the number of petroleum-producing countries has increased from what it used to be in the early 1990s.[86] Concurrently, the energy demand from countries like India and China has also increased.[87] This could be attributed to their massively growing population and economy, which therefore results in the increase in energy demand and ways to sustain their growth. These have changed

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<http://dx.doi.org/10.1163/221190009x00169> accessed 19 March 2018. See also, Francisco Parra, *Oil Politics: A Modern History Of Petroleum* (IB Tauris 2004) 68.

81 See Daniel Yergin (n. 42) 485 and Anthony Sampson (n 77) 32.

82 Ibid.

83 These NOCs are Saudi Aramco, Russia's Gazprom, CNPC of China, NIOC of Iran, Venezuela's PDVSA, Brazil's Petrobras and Petronas of Malaysia. See Carola Hoyos, 'The New Seven Sisters: Oil And Gas Giants Dwarf Western Rivals' (*Warregoenergy.com*, 2007) <http://warregoenergy.com/story/documents/ft%20the%20new%20seven%20sisters.pdf> accessed 8 March 2018. See also Bernard Mommer, 'The Political Role Of National Oil Companies In Exporting Countries: The Venezuelan Case' [1994] Oxford Institute for Energy Studies WPM 18.

84 See Michael Watts (n 61). See also, Andrews D. C. Smith and Michael J. Trebilcock, 'State-Owned Enterprises In Less Developed Countries: Privatisation And Alternative Reform Strategies' (2001) 12 European Journal of Law and Economics 217.

85 Chidi Basil Ike and Hyunjung Lee, 'Measurement Of The Efficiency And Productivity Of National Oil Companies And Its Determinants' (2014) 17 Geosystem Engineering. See also, Seyed Kamran Bagheri and Alberto Di Minin n 73.

86 Valérie Marcel, 'The Cost Of An Emerging National Oil Company' [2016] Chatham House - The Royal Institute of International Affairs.

87 Seyed Kamran Bagheri and Alberto Di Minin, n 73. See also, Bernice Lee and others, 'Resources Futures' (2012) 1 Chatham House.

the landscape of the global petroleum industry, as these countries have NOCs that go out of their countries in search of energy. In doing this, they contribute to foreign direct investment (FDI) in the upstream projects, stimulating competition in the industry, and going into contracts with the petroleum-producing countries to buy shares in their production.[88]

2.4 NOCs Relationship with other Players in the Global Petroleum Industry

Going by the history of the global petroleum industry, IOCs, governments, OPEC and NOCs are arguably considered the key players in the international petroleum industry. De Graaff identified the state, IOCs and NOCs as the three main categories of actors in the global petroleum industry.[89] Furthermore, it can be argued that some Non-Governmental Organisations (NGOs) and inter-governmental organisations, for example, International Energy Forum (IEF), United Nations, and International Energy Agency (IEA) are also key players in the global petroleum industry. Be that as it may, in this study, a brief overview of the activities of select critical players in the global petroleum industry will be carried out in this chapter. In contrast, a critical analysis of NOCs will be carried out in the next chapter (chapter 3). It can be argued that the roles played by IOCs, governments and OPEC, gave rise to the presence of NOCs in the present-day international petroleum industry.

For this study, the NOC will take centre stage in the analytical framework. Here, the relationship between the NOCs and some global petroleum industry players will be examined. The role of IOCs in the global petroleum industry has been well established, so a thread of its role in the global petroleum industry will run

[88] Gilles Carbonnier and Fritz Brugger in Andreas Goldthau (n 30) 71.
See also Paul Markwell and others, 'The New Frontier For National Oil Companies' [2014] SSRN Electronic Journal; Jonathan Green, 'The Rise Of The "International National Oil Companies" And Their Challenge To International Oil Companies' (*Pipeline Technology Conference*, 2008) <https://www.pipeline-conference.com/sites/default/files/papers/P.6%20Green.pdf> accessed 28 December 2018, and Seyed Kamran Bagheri and Alberto Di Minin (n 73).

[89] See Naná de Graaff, 'A Global Energy Network? The Expansion And Integration Of Non-Triad National Oil Companies' (2011) 11 Global Networks 262.

throughout this work. Furthermore, in theory, building this work will briefly examine the roles governments (state), and OPEC play in the global petroleum industry.

2.4.1 International Oil Companies and National Oil Companies

As has been highlighted in many publications and reports, the global petroleum industry was controlled by the so-called 'Seven Sisters' (international oil companies or oil multinationals) the likes of Exxon, Royal Dutch/Shell, Mobil, Texaco, Standard of California, Gulf and British Petroleum in the 1970s dominated the global petroleum operations.[90] Then, IOCs had access to over 80% of the world's petroleum reserves, unlike today when this access has shrunk to about 14%.[91] The earlier mentioned can be observed in the history of the global petroleum industry, which was briefly discussed earlier in this chapter. This control over the global petroleum industry started to diminish as countries started forming corporate entities that would protect the interests of these states in the exploitation of their petroleum resources, these entities are usually known as national oil companies.[92] Historically, the IOCs represented the private ownership spectrum of the global petroleum industry, while NOCs represented the state ownership spectrum. Over time, amidst all the tussle for control of the petroleum resources there emerged forms of cooperation between IOCs and NOCs, though most of these were within a national control framework.[93]

In explaining the roles played by IOCs, Wälde in his work, stated that multinational energy companies are the major actors in the industry because, through their operations and activities in the global petroleum industry, international energy

[90] Leslie E Grayson (n 18) 1- 3. See Charles More (n 48) 69 – 78.
[91] See Antonio Brufau Niubo, 'The IOCs and the NOCs In The Modern Energy Context' (*International Energy Forum*, 2020) <https://www.ief.org/news/the-iocs-and-the-nocs-in-the-modern-energy-context> accessed 27 May 2020.
[92] See Leslie E Grayson (n 18) 1-3, 18-20.
See also, Janet Xuanli Liao, 'The Chinese Government And The National Oil Companies (NOCs): Who Is The Principal?' (2014) 21 Asia Pacific Business Review 44.
[93] See Carole Nakhle and Francesco Petrini, 'The Changing Relationship between OPEC countries and International Oil Companies: The Dynamics of Bargaining Power in an evolving Market' in Dag Harald Claes and Giuliano Garavini (eds), *Handbook Of OPEC And The Global Energy Order: Past, Present And Future Challenges* (Routledge 2020) 155.

laws are and were generated.[94] It can be contended that the state generates the international energy law, but for the debate on who is the producer of the global energy to be critically assessed, one would have to examine these major players in the industry. In the international petroleum industry of the 21st century, one can argue that NOCs are now the major players.

As expected, IOCs role in the global petroleum industry has been one that has been contended; from the instruments used by its host government to drive their foreign policy, to a symbol of capitalism and one of the critical factors of national energy security.[95] IOCs have been known to help in the promotion of individual Western governments national interests through their policies of economic liberalism.[96] These Western governments have benefitted from the dominant international and domestic positions their IOCs occupied in the global petroleum industry.[97] According to Gordon, the IOCs have been known to receive support from their central government - these governments were always willing to support the IOCs in times of stress and made sure that the national oil and gas industry developed in specific areas.[98] For example, in promoting its policy of oil exploration outside the United States after fear about its domestic oil reserves, the US government urged the involvement of American majors in the Red Line Agreement with the demands of an open-door policy in its exploration across the Middle East.[99] Hence, it can be argued that IOCs were a tool used by the First world in exploiting the wealth of natural resources of the Third world.

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[94] Thomas W Wälde, 'International Energy Law: Concepts, Context And Players: A Preliminary Introduction' (2003) 1 OGEL.

[95] IOCs are generally categorised to include publicly listed companies, whose majority stake is owned by private shareholders. See Paul Stevens, 'International Oil Companies: The Death Of The Oil Business Model' (*Chathamhouse.org*, 2016) <https://www.chathamhouse.org/sites/default/files/publications/research/2016-05-05-international-oil-companies-stevens.pdf> accessed 3 December 2018; Giacomo Luciani, 'Corporations vs. States in the Shaping of Global Oil Regimes' in Wojciech Ostrowski and Roland Dannreuther (eds) (n 32) 123; 'Where Our Oil Comes From - Energy Explained, Your Guide To Understanding Energy - Energy Information Administration' (*Eia.gov*, 2018) <https://www.eia.gov/energyexplained/index.php?page=oil_where> accessed 3 December 2018; Charlotte Joy Trudgill, 'International Oil Companies And Petroleum Legal Policy In Iran: Evolution In The Shadow Of Resource Nationalism, 1951-1980' (2015) 2 SOAS Law Journal; Richard Gordon, 'The International Oil Companies: Considers The Prospects And Challenges Ahead' [2006] Oxford Energy Forum; Robert Mabro, 'Access To Oil Reserves: Assesses Different Aspects Of The Issue' [2007] Oxford Energy Forum; Leonardo Maugeri (n 37) 229.

[96] See Carlo J Morelli in Alain Beltran (ed.) (n 1) 340.

[97] Anthony Sampson (n 77) 35 and Thijs van de Graaf (n 16) 44.

[98] See Richard Gordon n 95.

[99] See Daniel Yergin (n 42) 187 – 189. See also, Michael Morton, 'Once Upon A Red Line - The Iraq Petroleum Company Story' (*GEO ExPro*, 2013) <https://www.geoexpro.com/articles/2013/06/once-upon-a-red-line-the-iraq-petroleum-company-story> accessed 8 February 2020.

Notwithstanding, today, IOCs continue to play an essential role in the global petroleum industry. This can be witnessed especially in petroleum resource-rich developing countries where IOCs as parties with NOCs invest significantly in the host country's petroleum industries. Sometimes referred to as IOC-NOC partnerships, both companies come together to collaborate on projects and this could range from a production sharing agreement (PSA) to a joint venture agreement.[100] The relationship is one that benefits both companies regardless of the company objective. What is more, through this collaboration IOCs gain access to the NOCs petroleum resources, while the NOC could become a means by which the government will promote economic programmes, social initiatives and political agendas.[101]

Furthermore, the relationship between IOCs and NOCs varies, and is mostly dependent on various factors. For instance, it has been contended that the level of resource nationalism in a country influences the balance of power between the NOC and IOC.[102] However, according to de Graaff, taking a relational approach to power between NOCs and IOCs will lead to a better understanding of the trans-national trends between these companies and the changes that have taken place in the past decade.[103] The quantity of the petroleum resources, in turn determines the potential revenue to be gained.[104] The relationship between the NOCs and IOCs has changed over the past 30 years as NOCs have broadened their operations, as some now exert influence in the management of the petroleum resources in their countries.[105] Today, NOCs and IOCs sometimes compete to book petroleum resource reserves both nationally and internationally. In addition, transfer of technological knowledge, engineering expertise and project management skills become some of the central driving forces for investment between the IOCs and NOCs.[106]

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[100] Saud Al-Fattah, 'The Evolving Role Of Oil And Gas Companies In The Energy Industry' [2020] SSRN Electronic Journal.
[101] Ibid.
[102] David Ledesma, 'The Changing Relationship Between NOCs And IOCs In The LNG Chain' [2009] Oxford Institute for Energy Studies NG 32.
[103] See Naná de Graaff n 89.
[104] David Ledesma n 102.
[105] Ibid.
[106] See Nikhil Koolwal and Shilpi Khandelwal, 'National Oil Companies: Models Of Business, Threats, And Emerging Trends' (2020) 19 UGC Care Journal 24.

2.4.2 Governments and National Oil Companies

As vast deposits of minerals are discovered in a country, the onus always falls on the government to come up with a strategy that will be used in the exploitation of these natural resources. Historically, during the early stage of the petroleum industry, governments usually lacked the knowledge to properly develop a coherent petroleum strategy that would enable it to gain from the exploitation of petroleum resources. For example, Norway, Denmark and the United Kingdom knew little about oil and gas resources and its potential when petroleum resources were discovered in the North Sea.[107] The same scenario can apply to a developing country that discovers large deposits of mineral within its territory. Knowledge of petroleum resources, its economic impact and the global petroleum industry, is vital to any government in developing a sound strategy, and a specific legal framework and policies in assisting the government in making sure that the people benefit from the exploitation of these natural resources.

Usually, the legal framework applied to the petroleum sectors of a state sets the objectives of the government.[108] These legal frameworks usually originate from the constitution, and define the ownership of petroleum resources, followed by the legislation guiding the petroleum industry of the state; this legislation sets out the rights, rules and procedures for granting access to the natural resources.[109] Thus, establishing the administrative framework that structures the petroleum property rights, which can be in the form of concessions, licences, leases, or any other term that is used by the state, and these can be covered in the form of contracts, or agreements and joint ventures which the state goes into with other parties, for the exploitation of their petroleum resources.[110] It is important to bear in mind that these petroleum resources are to be utilised for the benefit of the whole country and not for a select group.

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[107] Svein S Andersen *The Struggle Over North Sea Oil And Gas: Government Strategies In Denmark, Britain And Norway* (Scandinavian University Press 1993) 2

[108] Evelyn Dietsche, in Wojciech Ostrowski and Roland Dannreuther (eds), (n 7) 159.

[109] Ibid., 159-162.

[110] Ibid., 161. See also, John van Schaik, 'How Governments Sell Their Oil' (*Resourcegovernance.org*, 2012) <https://resourcegovernance.org/sites/default/files/OilSales-HowGovtsSellOil.pdf> accessed 20 February 2020.

According to Grayson, contrary to the popular belief that the petroleum industry was not regulated, the presence of onerous regulations that were imposed on the industry since the 1920s in Japan, France, Italy and the United States asserts that the industry was not regulated are inaccurate.[111] The debate of government involvement in the petroleum industry, or getting involved in the exploitation of the country's natural resources has been an ongoing one, since the entrance of governments through their NOCs to the industry. The level of government involvement in the petroleum industry varied from country to country. However, in all, there is evidence of regulations and industry policies, whether these policies changed over time or remained consistent, the importance of government involvement was seen as vital, especially during the 1973-1974 oil embargo.[112]

Further, as the significance of petroleum as an energy source grew, the 1973 embargo, followed, by the rise of oil prices, it then became clear to governments, especially the Western European governments, that they had to be directly involved with the petroleum industry and to do this, they had two options, one was to attempt to regulate the petroleum market indirectly with tariffs, taxes and licenses. The alternative was to participate directly in the petroleum industry by the establishment of national oil companies.[113] As a result, this highlights one of the important factors of a NOC in a petroleum resource-rich country and also, the importance of direct participation in the industry.

Grayson pointed out that the rise of the oil price in 1979 led to the more substantial involvement of governments in the global oil and gas industry, and this was done through the establishment of NOCs.[114] It dawned on these governments that there was a possible, huge revenue to be gained from these resources; hence the need for control grew. This government control was exercised in different ways, from the appointment of the board's directors, to the power to appoint and remove personnel at the will of the government.[115] This

[111] Leslie E Grayson (n 18) 6 -7.
[112] Leslie E Grayson (n 18) 7 - 8. See also Alan H Gelb, *Oil Windfalls: Blessing Or Curse* (Oxford University Press 1988) 3.
[113] David G Victor, David R Hults and Mark Thurber (eds) *Oil and Governance* (Cambridge University Press 2014) 5. See also, Alan H Gelb (n 101) 3-5 and Bassam Fattouh, 'OPEC Pricing Power: The Need For A New Perspective' [2007] Oxford Institute for Energy Studies WPM 31.
[114] Leslie E Grayson (n 18) 1-3, 18-20.
[115] Ibid.

influence might affect the performance of the NOCs or its ability to carry out its duties rather than attending to that set by the present government. Geographical diversification can assist the NOC to minimise technical and political risks, and this means that its operations have to be carried out not only within its territory, also when it registers a loss in, say Ghana, it can also offset these losses in Sudan.[116] Therefore that is the goal of a truly internationalised NOC. This signifies that NOCs operate competently within their domestic petroleum industry but also within the global petroleum industry. For instance Equinor and Petrobras.

As more governments started getting involved in the development of their natural resources and in the petroleum industry through their NOCs, this meant that political considerations and each country's economic well-being became the main issue, and subject matter in the petroleum industry.[117] The Private company goals of profit-making became secondary once the interest of the state became the ultimate goal. Usually, the petroleum industry was controlled and driven by IOCs. The name of the game was profit, but as governments and NOCs started getting involved, the policies had to serve broader economic goals than the maximisation of profits.[118]

Traditionally, governments are expected to regulate the state's petroleum industry, to be able to create value for the public from the exploitation of petroleum resources.[119] This means that governments are expected to formulate the policies for all the phases of the state's petroleum industry. Fundamentally, each government is expected to formulate and follow a petroleum policy that targets the promotion of the state's interest in petroleum affairs within and outside its territory, as the ultimate goal would be creating value for the people through these petroleum resources.[120]

Furthermore, the International Energy Agency (IEA) captured the importance of government, policy and regulatory frameworks in the following statement:

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[116] Ibid.
[117] See Coby van der Linde (n 35) 9.
[118] Ibid.
[119] Thomas W Wälde n 90.
[120] See Bernard Taverne (n 41) 97 – 80.

> for it is governments that "hold the key to changing the mix of energy investment" and it is the policy and regulatory frameworks that they establish, nationally and internationally…[121]

The IEA statement supports the argument that the government has a huge role to play in the creation of value and benefits through the petroleum resources of the state. As the drilling of the first oil well marked the beginning of the petroleum industry, correspondingly this also prompted the start of the development of mining legislation that would guide the petroleum industry and its operations.[122] Petroleum legislation is the instruments employed by governments to regulate the exploration and development of petroleum in the state.[123] Petroleum legislation consists of all laws, regulations, rules and policies that are designed to regulate the state's petroleum industry and its operations.[124] It is important to note, that the petroleum industry changes from time to time as has been evidenced from its history, therefore it is usually expected that these petroleum frameworks evolve with the industry, so as to maintain the state's ability to create value through the petroleum resources. Although this is usually viewed at the level of revenue, the state accrues it from the exportation of the petroleum resources.

In addition, through policies, laws and regulations, governments directly intervene in the petroleum industry and directly through its participation and investment in the petroleum industry[125] According to Sarbu, differing from the contested main sectoral objective of commercial activities that will increase the revenue of the state for any petroleum resource-rich developing country, one might argue that this is not usually obtainable. Instead, the seeking of rent and ways to increase the rent that can be received from the exploitation of its natural resources is what drives the government and its policies.[126] The ability for a government to gain huge rent from the petroleum resources is equally commendable. As this would mean more petroleum resource revenue that goes into the country's coffers.

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[121] Neil Gunningham, 'Regulation, Economic Instruments and Sustainable Energy' in Andreas Goldthau (n 14) 305. See also, Ralf Boscheck n 35.
[122] See Thomas Walde, 'Investment Policies in the International Petroleum Industry: responses to the Current Crisis' in Khan (ed) (n 25) 32.
[123] Ibid.
[124] Bernard Taverne (n 41) 115.
[125] Oystein Noreng (n 35). See also Dr. S.K. Date-Bah and Makbul Rahim, Promoting Petroleum Exploration and Development: Issues for Government action in Khan (n 25) 106 – 109.
[126] Bianca Sarbu *Ownership and Control of Oil: Explaining Policy Choices Across Producing Countries* (Routledge 2014) 26 – 27.

However, some arguments against this situation will be raised in the subsequent chapters of this thesis. Commercial activities by the state's NOC could be a sustainable measure, employed by the state to ensure a steady revenue stream for the country, as the state's petroleum resources could dry up one day. The NOC's commercial expertise can help the government continue the generation of revenue through its international petroleum activities.

Today the importance of governments in the petroleum industry cannot be ignored because the development of international petroleum strategies strongly requires the input of governments, whether from petroleum exporting or importing countries.[127] The government of any resource-rich state is usually expected to be able to manage these resources in the interests of the state. However, there is a view that governments are often at a disadvantage when entering into a contract with IOCs or any mineral company, as these companies are more knowledgeable in the industry than the government.[128] For example, there are recent reports on Exxon-Mobil and Guyana contracts, where allegations were levelled against the IOCs for cheating the Guyanese government and state of over 55 billion dollars over the contract they entered into with the company.[129] Whatever the case may be in Guyana, the burden is on the government to ensure that the people get a fair share and benefit from these petroleum resources discovered within its territory.[130]

Moreover, according to Heller, the competent, accountable, and the transparent management of oil and gas, and mineral resources is the definition of good resource governance.[131] This can be tagged modern-day exploitation, because of the countries' lack of industry know-how that resulted in their losing a substantial amount that would help in its economic development. Mitchell et al. for example,

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[127] See Andrew Bauer and Juan Carlos Quiroz, 'Resource Governance' in Andreas Goldthau (n 14) 245 – 246.
[128] John Mitchell, Valerie Marcel and Beth Mitchell (n 20).
[129] See Jonathan Gant, 'Signed Away: How Exxon's Exploitative Deal Deprived Guyana Of Up To US$55 Billion | Global Witness' (*Global Witness*, 2020) <https://www.globalwitness.org/en-gb/campaigns/oil-gas-and-mining/signed-away-exxons-exploitative-deal-deprived-guyana/> accessed 9 February 2020.
[130] See Victor C. Azubike, 'Critical Government And National Oil Company Role In Their Petroleum Resource Development: Lessons For Guyana Petroleum Sector' [2020] Commonwealth Law Bulletin.
[131] As complex objectives or mandates, astronomical rents and lack of transparency are significant obstacles to good petroleum resource governance. See Patrick Heller, 'National Oil Company Database: Global Launch' (*National Resources Governance Institute*, 2019) <https://www.nationaloilcompanydata.org/api/publications/content/MvBx7qBCgtu0iILVzQGU2yhswUiFrmxxdwNuaT9C.pdf> accessed 25 June 2019.

claimed that a scenario where the governments were disadvantaged was observed in DR Congo.[132] In 2008 the DR Congo government received $92 million in mineral taxes and tariffs on estimated mineral exports of $2billion.[133]

Ways to correctly manage natural resources by a state, and primarily through its NOCs has seen many solutions promulgated towards the improvement of the performance of the NOC, because the benefits are numerous, from enhancing the performance of the petroleum sector of a state, with an accommodating domestic economic policy and governance, contributing importantly to the international energy supply and security.[134]

Furthermore, often in a developing petroleum-rich state, the NOCs are unceremoniously controlled by the ruling party and an elite group.[135] The politicised NOC board and executive management, coupled with the controlling elite group show little or no interest in the overall performance of the NOC, instead they seek to use the NOC to achieve the group's goals rather than that of the state.[136] This undermining of the corporate governance structure of the NOC affects the corporate performance of the NOC and disrupts the transparency process, which leads to corruption and mismanagement of funds. As with the other negative examples, NNPC in Nigeria provides a classic example of these governance and transparency problems. A critical step or process in improving the governance in the petroleum sector of a state has been observed to be transparency.[137] It is essential to know whether these NOCs were set up by act of parliament (legislation) or whether they were incorporated as a company through filing and registration at company house.[138] This will form a part of the comparative analysis in chapter 6. Whether a NOCs in its legal status can be an

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[132] John Mitchell, Valerie Marcel and Beth Mitchell (n 20).
[133] Ibid.
[134] Charles Mcpherson in Andreas Goldthau (n. 111) 153.
See also, 'Natural Resource Charter Second Edition' (*Resourcegovernance.org*, 2014) <https://resourcegovernance.org/sites/default/files/documents/nrcj1193_natural_resource_charter_19.6.14.pdf> accessed 9 November 2018 and 'Natural Resource Charter Benchmarking Framework' (*Resourcegovernance.org*, 2017) <https://resourcegovernance.org/sites/default/files/documents/natural-resource-charter-benchmarking-framework-report-2017-web_0.pdf> accessed 9 November 2018.
[135] Lindsay Whitfield and Lars Buur, n 2.
[136] See Charles Mcpherson in Andreas Goldthau (n. 111) 151 – 152.
[137] Ibid.
[138] Eze Emem Chioma, 'How Has The Ability Of The NNPC To Make A Profit Been Hampered By The Retention Of Its Corporate Status As A Statutory Body Rather Than As A Separate Legal Entity Under The NNPC Act 1977?' (2015) 8 International Energy Law Review 304.

agent or servant of the government, whether it was constituted by an act of parliament or incorporated through the company act.[139]

NOC failure can have terrible consequences for the country, as has been witnessed in some petroleum-rich states.[140] It is known that the overall objectives of every state petroleum sector are defined at the very top of government and depending on the political system in the state when it comes to decision making in relation to the petroleum or petroleum resources of the country, it might be subject to public debate and parliamentary approval.[141] Again, the upstream sector policies of the petroleum industry of the two countries, i.e. Norway and Nigeria, will be in focus in the comparative chapter of the study. Questions like, what are the policies? How does it relate to control? How does it relate to ownership? How are these policies implemented in practice? What are the tools? These will be analysed in chapter 6.

Further, the government playing the role of the sovereign owner on behalf of the people, according to Sarbu, is one government role that has been contested.[142] However, the energy policies are set down by the government and the role of the NOC also, so it can be argued that the government is a steward and not the owner of the natural resources since the natural resource is for the people.[143] Relationships between governments, NOCs and IOCs are usually guided by upstream legal frameworks and fiscal regimes. These legal frameworks and fiscal regimes can also regulate the midstream and downstream sector of the petroleum industry of the state. Expectedly, these are the tools used by a sovereign country to implement their policies of their petroleum industry.[144] As such different legal instruments may be enacted by the petroleum law of a state, especially for the upstream sector, these usually come in the form of exploration and production agreements.[145]

[139] V. K. Moorthy, 'The Malaysian National Oil Corporation — Is It A Government Instrumentality?' (1981) 30 International and Comparative Law Quarterly 638; Eze Emem Chioma n 125.
[140] Oystein Noreng (n 65).
[141] Additionally, the type of NOC also defines the decision-making area of responsibility of the government in the states oil and gas industry. See Bianca Sarbu (n 91) 24.
[142] Bianca Sarbu (n 91) 26 – 27.
[143] Ibid.
[144] Honoré Le Leuch, 'Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, fiscal, and Legal Issues' in Andreas Goldthau (n 27) 127.
[145] Ibid. (n 191) 130.

Le Leuch, in his work, remarked that usually two main approaches are followed by a state when picking its legal instruments:
One, a state following the terms defined in the national legislation and regulation awards specific petroleum licences, which could be an exploration licence or permit over an exploration area authorizing exploration, or a production licence (or lease or concession) over a restricted development area authorizing the development and production.[146] This was observed in the exploration terms and obligations in the agreements in countries like the UK, Norway and Denmark.[147] Two, there is usually a conclusion of the exploration and production contracts in the national law, commonly observed in developing states that are yet to issue comprehensive legislation and regulation.[148] This provides the terms and conditions applied to exploration and production not covered under the legislation and regulation.

Sarbu argued that developing countries that are endowed with natural resources often pursue policies that will only maximise the inflow of rent into the government coffers rather than pursuing resource development policies with a long-term view of taking over from the IOCs.[149] It, therefore, seems that the governments are fixated on getting huge revenues from the petroleum resources, which could then mean neglect of the other sectors of the economy. Therefore, one might argue that the best route for sustainable development of petroleum resources would be pursuing commercial objectives as shown in countries like Norway and Brazil, rather than depending solely on the rents from the activities of IOCs in the exploitation of its natural resources. It is also important to note that commercial and non-commercial objectives can be achieved. However, most often, the resource-rich developing countries lack the institutional capacity to carry out these objectives.[150] On the other hand, it can also be argued that the state lacks the willingness to achieve both objectives; this situation is usually seen as a state lacking the 'political will' to achieve specific objectives.

[146] Honoré Le Leuch in Andreas Goldthau (n 27) 130.
[147] Ibid.
[148] Ibid.
[149] Bianca Sarbu (n 91) 26-27.
[150] Ibid.

Accordingly, the state promulgates an upstream petroleum law which defines the whole upstream sector process, from types of agreements,[151] terms and conditions to be met, exploration, exploitation operations and the applicable petroleum tax regime.[152] It is important to note that over time countries might decide to review or change their policies, especially the fiscal policies. Introduction of new terms in upstream petroleum contracts and tax systems always evolve, and this can be arguably tied to the political evolution of the country, and whether the country is developed or developing, these changes will occur.[153] Hopefully, this change in the country's petroleum framework will have value creation for the people of the state at heart, thereby ensuring that the people continue to benefit from the petroleum resources. Arguments about leaving petroleum resources in the hands of the market or private sector, or having the government usually intervene by the NOCs which is conventionally the government agent has been going on for a while.

For all the argument against government intervention in the exploitation of a developing countries' petroleum resources it is essential to note that the developed or industrialised countries have a 'self-sustained' economy whereas the developing countries did not.[154] So the discovery of petroleum resources in these developed countries was made within a well-defined or somewhat well-structured economy, unlike when petroleum is discovered in a developing country with a less structured economy.

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[151]. The following are the three main types of agreements used in the petroleum industry:

- Concession Agreement

This was used in the nineteenth century whereby exclusive mining rights over oil and gas resources are granted the concessionaire, usually the IOCs, on the licensed area by the government. This form of agreement, although heavily criticized by developing resource-rich countries, granted the IOCs ownership over the oil and gas production when extracted at the wellhead – or any other agreed on the point of the transfer of title.

- Production Sharing Contract (PSC)

The terms of the PSC do not grant the IOCs petroleum rights over the minerals but is legally appointed to conduct petroleum operations on an exclusive basis as a contractor to the state or its NOC, on account of the contract they signed.

- Risk Service Contract (RSC)

The terms under this arrangement grant the IOCs a monetary remuneration only on account of the commercial production; thus, the IOC does not hold any direct access to any share of the petroleum produced but rather compensation for its work performed as a contractor to the state or the NOC of the state.

See Honoré Le Leuch, 'Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, fiscal, and Legal Issues' in Andreas Goldthau (n 27) 132 – 134. See also, Ernest E Smith and John S Dzienkowski n 78.

[152] Honoré Le Leuch in Andreas Goldthau (n 27) 129.

[153] Ibid.

[154] Coby van der Linde, *The State and The International Oil Market* (Kluwer Academic Publishers 2000) 27-35.

These petroleum resources are expected to be managed with the interest of the public at the forefront, and not the interest of a select group of elites. According to Van de Linde, the expected government roles as a maximiser of social welfare both as an economic regulator and a provider of public goods is what the 'public interest' theories highlights.[155] However, much criticism has been levelled at this theory, mainly that the present government will use this to further its political interests which seldom aligns with social welfare and therefore create misguided policies.[156] One can say that this situation makes it pertinent for government intervention to properly regulate the petroleum industry rather than leave it to the world market forces, as a state's petroleum sector is affected by domestic and international factors.

Control has always been an essential factor in the petroleum industry, from the direct control over the revenues, from the exploitation of petroleum resources to the control of how the income from these resources is redistributed. This was and is still the concern of these petroleum-producing state's governments.[157] For example, according to Andersen, control of its petroleum industry has always been the goal of the Norwegian government, securing the lion's share of the possible income from the exploitation of its resources was the long-term goal, and this was achieved through control of the day-to-day activities of the industry.[158] It can be concluded that the intentions and objectives of the governments towards the management of its petroleum resources can be gleaned from the legislation enacted that is targeted towards this goal.

Finally, in elaborating the role of government in petroleum development Van de Linde observed that it is a well-known fact that the government's role is usually one of law and order; therefore the argument has been one of making sense of law and order in an economic dimension, from the NOCs involvement in

[155] Ibid. See also, Richard A. Posner, 'Theories Of Economic Regulation' (1974) 5 Bell Journal of Economic 335; Gilbert Becker, 'The Public Interest Hypothesis Revisited: A New Test Of Peltzman's Theory Of Regulation' (1986) 49 Public Choice 223; Theodore E. Keeler, 'Theories Of Regulation And The Deregulation Movement' (1984) 44 Public Choice 103, and Michael Hantke-Domas, 'The Public Interest Theory Of Regulation: Non-Existence Or Misinterpretation?' (2003) 15 European Journal of Law and Economics 165.
[156] Ibid. See also, Andrei Shleifer, 'Understanding Regulation' (2005) 11 European Financial Management 439, and Oliver James, 'Regulation Inside Government: Public Interest Justifications And Regulatory Failures' (2000) 78 Public Administration 327.
[157] Coby van der Linde (n 154) 27-35.
[158] Svein S Andersen (n 107) 63.

production, while also having the government regulate the industry, thereby having an effect on the private economy.[159] This, therefore, gives the petroleum industry a structure when the government's framework is one that seeks to create value for the people from the petroleum resource of the state.

2.4.3 Organisation of Petroleum Exporting Countries (OPEC) and NOCs

The Organisation of Petroleum Exporting Countries (OPEC) is an influential organisation in the global petroleum industry. Some commentators refer to it as a cartel or club, but the fact is it has always faced strong opposition from the significant IOCs that control the global petroleum industry,[160] and, conceivably by extension some countries that support the IOCs business model in the global petroleum industry. In reiterating the cartel viewpoint, Adelman saw OPEC as a loosely cooperating oligopoly – or cartel and, further suggested that the organisation is no more than a convenient forum for the member countries.[161] Arguably, it is convenient in the sense that these member states seek maximum benefit from their petroleum resources. On the other hand, 'oil colonialism' as Paul Roberts termed it, was an arrangement that benefitted the IOCs greatly, which unavoidably created political and economic tensions within the petroleum resource-rich countries.[162] It could even be argued as being one of the reasons that gave rise to the birth of OPEC.

It is important to mention that one cannot engage in a discussion about petroleum law, policies and regulations without mentioning OPEC. According to Thomas Wälde, OPEC is the global organisation with the most significant influence on the petroleum industry since it was formed.[163] The entrance of governments in the oil

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[159] Coby van der Linde (n 54) 27 – 35.

[160] Jahangir Amuzegar, *Managing the Oil Wealth: OPEC's Windfalls and Pitfalls* (IB Tauris 1999) 1 – 9. See Judith Rees and Peter Odell, ' International Oil Issues and perspectives' in Judith Rees and P. R Odell (eds) (n 10) 3-5. See also, M.A. Adelman, 'OPEC as a Cartel' in James M. Griffin and David J. Teece, *OPEC Behavior And World Oil Prices* (George Allen & Unwin 1982) 37-55; Dag Harald Claes, *The Politics Of Oil-Producer Cooperation* (Routledge 2018) 61-63.

[161] M.A. Adelman, 'OPEC as a Cartel' in James M. Griffin and David J. Teece (n 146) 37.

[162] Paul Roberts, *The End Of Oil* (Bloomsbury 2005) 99 – 101. See also, Wojciech Ostrowski, 'The Political Economy of Global Resources' in Wojciech Ostrowski and Roland Dannreuther (eds) (n 32) 115.

[163] Thomas W Wälde (n 67). See also, Bassam Fattouh n 102.

and gas industry has been decisive not only for the oil-producing country but also for the oil and gas industry as a whole.[164]

OPEC was founded in 1960,[165] possibly on the back of the proposal of then Venezuelan Oil Minister Juan Pablo Pérez Alfonso and the Saudi Oil Minister Abdullah Tariki.[166] Pérez Alfonzo was said to be fascinated by the Texas Railroad Commission (TRC), the agency that regulated the oil production in Texas, and later in the United States of America in the early 1930s.[167] Equally, Pérez Alfonzo had studied the example of the pro-rationing policies of the Texas Railroad Commission and intended to replicate this model on an international scale.[168] Moreover, Venezuela then was the largest exporter of oil in the world, and as such, was the country most affected by the Mandatory Oil Import Program, implemented by President Eisenhower in March 1959, which was designed to protect the domestic petroleum industry at the expense of foreign-sourced oil.[169] Thus, Venezuela's move to create OPEC was a direct response to this new quota programme. 1960 saw five oil-producing countries (Venezuela, Saudi Arabia, Kuwait, Iraq and Iran) formed OPEC in a bid to assert more control over the activities of the IOCs (seven sisters).[170]

Equally importantly, Van De Graaf remarked that OPEC was established to reduce dependence on the IOCs by discussing royalties and tax questions, not as a cartel to set prices and quotas.[171] Giacomo Luciani remarked that the demise of the oil majors was not due to the arrival of OPEC, but rather a combination of market

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[164] Coby van der Linde (n 54) 25.

[165] 'OPEC: Brief History' (*Opec.org*, 2018) <https://www.opec.org/opec_web/en/about_us/24.htm> accessed 13 December 2018.

[166] See Edward L. Morse n 26; Daniel Yergin (n 41) 493-495; Thijs van de Graaf (n 16) 48-50, and Anthony Sampson (n 77) 211.

[167] See M. M. Crane, 'Recollections Of The Establishment Of The Texas Railroad Commission' (1947) 50 The Southwestern Historical Quarterly 478. See also, William R. Childs, *The Texas Railroad Commission: Understanding Regulation In America To The Mid- Twentieth Century* (1st edn, Texas A & M University Press 2005).

[168] Ibid.

[169] See Francisco Parra (n 79) 89. See also, Rasoul Sorkhabi, 'The First Oil Shock' (*AAPG Datapages/Archives*, 2015) <http://archives.datapages.com/data/geo-expro-magazine/012/012003/pdfs/92.htm> accessed 18 February 2020, and Anthony C. Fisher and Michael H. Rothkopf, 'Market Failure And Energy Policy A Rationale For Selective Conservation' (1989) 17 Energy Policy 397.

[170] James M. Griffin and David J. Teece, *OPEC Behavior And World Oil Prices* (George Allen & Unwin 1982) 4; Coby van der Linde (n 54) 25; Francisco Parra (n 79) 96-98; Bernard Taverne, (n 41) 171 – 173; Christopher Tugendhat and Adrian Hamilton, (n 19) 156-161; Øystein Noreng, *Crude Power* (IB Tauris 2002) 133 – 135; Paul Roberts (n 60) 99; Dag Harald Claes (n 27) 60-61, 131.

[171] Thijs van de Graaf (n 16) 48.

forces and evolving global economic equilibria.[172] Consequently, a combination of circumstances led to the emergence of OPEC, following the end of World War II, a move to challenge the engrained oil power oligopoly structure, set up by the IOCs and the Western governments.[173] After the end of World War II, economically poor but natural resource-rich developing countries sought to gain full ownership and control of their natural resources and thus gain energy autonomy from the Western superpowers or as commonly referred to the seven sisters.[174] Independent of the struggle by some petroleum resource-rich countries to control their resources, and the emergence of OPEC, another factor that also played a significant role in the decline of the seven sisters, was the arrival of smaller independent oil companies in the oil and gas industry. For example, AMOCO, CONOCO, ARCO and Occidental in the U.S, the establishment of state oil companies in oil and gas importing states, for example, ENI in Italy, Petrofina in Belgium and Gelsenburg in Germany and finally oil and gas exporting states like NIOC in Iran, were influential in challenging the oil majors.[175]

As OPEC member countries were not identical, the binding factor or common ground that drove them was the reliance of oil and gas export revenues and the importance of ownership, control, distribution and the ability to gain from the exploitation of their natural resources.[176] The difference between the OPEC countries was not only restricted to the above stated factors but it is also essential to mention that they were very different in political systems, which ranged from theocracy with Islam as the guiding light in Saudi Arabia and Iran, to democracy in Ecuador, Gabon and Venezuela, and military rule as observed in Libya and Nigeria.[177] There were also the hereditary emirates in Kuwait, Qatar and UAE.

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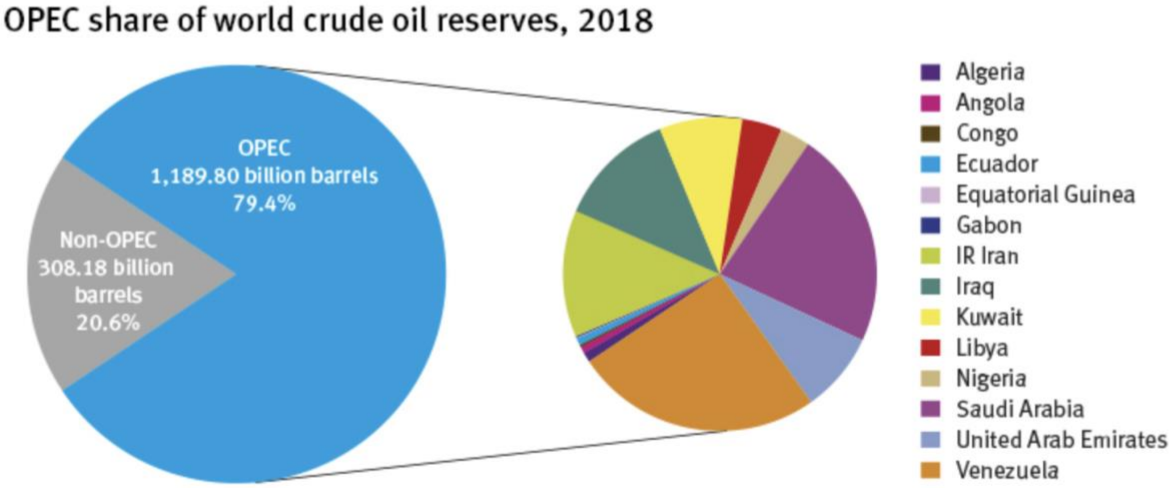
[172] Giacomo Luciani, ‘Corporations vs. States in the Shaping of Global Oil Regimes’ in Wojciech Ostrowski and Roland Dannreuther (eds) (n 91) 124-126.
[173] See Jahangir Amuzegar (n 160) 23 – 26. See also Bernard Mommer, *Global Oil And The Nation State* (Oxford University Press 2002) 151-167.
[174] Ibid.
[175] A publication from OPEC stated that OPEC was created out of a demonstration against the imperiousness of the major IOCs (the Seven Sisters) who controlled the oil and gas industry. Jahangir Amuzegar (n 58) 26, 28. See also, Bernard Mommer, 'The Governance Of International Oil: The Changing Rules Of The Game' [2000] Oxford Institute for Energy Studies WPM 26; Hasan S. Zakariya, ‘The Third World Perspective on Petroleum: The Travails of the ‘Haves’ and the Plight of the ‘Have-Nots’ in Judith Rees and P. R Odell (eds) (n 10) 111-112.
[176] See Jahangir Amuzegar (n 160) 1 – 9.
[177] Ibid.

Uniquely, with all these disparities between OPEC member states, it can be contended that the common goal of control and ownership of their petroleum resources was the driving force for OPEC and the gaining of high revenues from these resources. Hence, the importance of OPEC in the global petroleum industry cannot be denied, and the role it played in shaping the industry to what it is today. Although these might be true about OPEC, much criticism has been levelled against it, maybe for its unsuccessful attempt at reconciling the individual and collective interests of its member countries.[178] For a graphic insight into the OPEC share of crude in the global petroleum industry:

Figure 4: OPEC share of world crude oil reserves.



OPEC proven crude oil reserves, at end 2018 (billion barrels, OPEC share)

Venezuela	302.81	25.5%	Kuwait	101.50	8.5%	Algeria	12.20	1.0%	Gabon	2.00	0.2%
Saudi Arabia	267.03	22.4%	UAE	97.80	8.2%	Ecuador	8.27	0.7%	Equatorial Guinea	1.10	0.1%
IR Iran	155.60	13.1%	Libya	48.36	4.1%	Angola	8.16	0.7%			
Iraq	145.02	12.2%	Nigeria	36.97	3.1%	Congo	2.98	0.3%			

Source: culled from OPEC.[179]

No matter the level of development in the OPEC member states, the ultimate goal was to improve the living standards of its citizens, and the overall goal was for the citizens to benefit from the exploitation of their petroleum resources. From national economic growth, reducing the income inequities, increasing the efficiency of productive factors and ultimately catching up with the advanced countries of the West.[180] Amuzegar in his work argued that the OPEC member

[178] See Coby van der Linde (n 54) 67.
[179] See 'OPEC : OPEC Share Of World Crude Oil Reserves' (*OPEC*, 2020) <https://www.opec.org/opec_web/en/data_graphs/330.htm> accessed 27 May 2020.
[180] Jahangir Amuzegar (n 58) 1 – 9, 10-12.

state ownership and control of their natural resources led to misallocation, inefficient use, waste and misappropriation, and stated that this might be the same if these resources were in the hands of private corporations, like the IOCs.[181] The question remains, why are some of these OPEC member countries still miles away from achieving these goals, even after gaining full ownership and control of its natural resources?

OPEC countries, although the same framework guides them, yet some seem to perform better than others. The 1970s nationalisation that swept the oil and gas industry, saw the replacement of IOCs with NOCs in OPEC countries. Even though, this movement from private sector control to public sector control favoured the governments, who received vast economic rents and profits from the exploitation of its natural resources.[182] It is important to note, that some of these OPEC member countries were not satisfied to only collect rent, a few of them like Saudi Arabia, Venezuela and Kuwait used their NOCs to undergo vertical integration and internationalization in the oil and gas process to make sure their various countries are guaranteed markets for their resources and long-term revenue.[183] Other OPEC countries cannot undertake some measures, instead their governments or NOCs cannot finance these operations themselves, nor are capable or willing to, or form the necessary technical, geological, and price risks which subsequently lead them to continue seeking partners in IOCs to take the risk, therefore making them reliant on the IOCs for the exploitation of their natural resources.[184]

OPEC promoted the growth of state power in the petroleum industry,[185] Moreover, the trend was for the member state to shoulder, by necessity or design an increasingly dominant role in the exploitation of its natural resources.[186] Whether these countries pursued a socialist transformation or took a 'non-capitalist road' (e.g. Algeria, Iraq and Libya), capitalist and democratic, the government became the architect of socio-economic transformation, and the country obtained an increasingly more influential hand over of its natural resources.[187] It is important

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[181] Ibid.
[182] Coby van der Linde (n 54) 79 - 80. See also Robert Mabro n 44.
[183] Ibid.
[184] Ibid.
[185] See Barbara Doric and Vlado Dimovski, n 21.
[186] See Jahangir Amuzegar (n 160) 206 – 207. See also Christopher Tugendhat and Adrian Hamilton, (n 19) 181.
[187] Ibid.

to note that, today OPEC has formed alliances with non-OPEC member countries, for example, Russia and Mexico.[188] These countries are also petroleum-rich, and through their production output can influence the global petroleum market price. This move by OPEC is viewed as a means to formalise their relationship with these countries in a bid to control the global petroleum market share and price. It was also, to mitigate the crude price crashing by cutting production.[189]

Finally, when looking at how well a petroleum-rich developing and developed country has effectively managed their petroleum resources, the study seeks to look closely at an OPEC developing country-Nigeria, and a non-OPEC member Norway. Furthermore, according to OPEC country report cards, when analysing the growth of its member states, focusing on an OPEC member state, for instance, Nigeria, which is seen as a petroleum-rich developing state, set out objectives to boost its economic growth and modernisation while improving the equitable distribution of the incomes from these natural resources amongst regions and ethnic groups.[190] With that in view, today, Nigeria has the most mediocre performance record, although this is debatable. This was shown by its unsavoury rent-seeking activities and harmful domestic controls and regulations in handling its windfall during the three oil booms.[191] This can still be observed in present-day Nigeria.

2.5 Conclusion

This study's interest lies in the debatable fact that NOCs and petroleum resources will still be valuable in the global petroleum economy for the next couple of decades, and especially vital for the developing countries and their economy. The focus on the upstream sector is because it is the highest revenue-generating

[188] See Camila Domonoske, 'OPEC Formally Embraces Russia, Other Non-Members In Expanded OPEC+' (*NPR*, 2019) <https://www.npr.org/2019/07/02/738061521/opec-formally-embraces-russia-other-non-members-in-expanded-opec?t=1584007227808> accessed 12 March 2020.

[189] See 'Russia And Saudi Arabia Agree To Extend Deal With OPEC To Curb Oil Output' (*The Guardian*, 2019) <https://www.theguardian.com/business/2019/jun/30/russia-saudi-arabia-extend-deal-opec-oil-output> accessed 12 March 2020.

[190] Jahangir Amuzegar (n 160) 145, 182.

[191] Olu Ajakaiye, Paul Collier and Akpan H. Ekpo, 'Management of Resource Revenue Nigeria' in Paul Collier and Anthony Venables (eds), *Plundered Nations?* (Palgrave Macmillan 2011) 231-257.

sector of the petroleum value supply chain and where NOCs play a dominant role. In addition, It can be argued that petroleum is the crucial element that has shaped Western living to what it is today and still continues to play a vital role in the global energy sector. Energy demand and security remain a top priority to any government, and modern economy especially. Many wars have been fought over the control and ownership of petroleum resources.[192]

Despite the push for renewables or its growth, petroleum resources are still significant, especially for a developing country. Accordingly, if Western industrialisation was built on the back of petroleum resources, then upon which resources should the developing countries build theirs? Maybe upon renewable energy, even so, petroleum is still a cheap source of energy. With the right policies and framework from the government, the benefits of these resources can be hugely significant. Ever since petroleum became the primary source of energy in the world, the struggle for the control of this resource has been remarkable. The history of the international petroleum industry showed us that whether it was a private or public entity, the fight was one of control over the resources. Rockefeller planned to monopolise the petroleum industry using Standard Oil as a tool. Today, the struggle for control and ownership remains the same for many governments (particularly developing countries). Historically, the issue of control over petroleum resources is one that has engaged governments, IOCs and NOCs to various degrees.

Finally, sole ownership of petroleum or natural resources are usually vested in the state, and the sovereign rights over their exploration and exploitation are vested in the state.[193] Usually, the policies used in the upstream sector seek to find a balance between the interests of the country and that of the IOCs or NOCs as applicable, because attracting investment into the petroleum sector of a state is vital to the sector’s growth.[194] It is important to realise that for a government to

[192] José Noguera, 'The Seven Sisters Versus OPEC: Solving The Mystery Of The Petroleum Market Structure' (2017) 64 Energy Economics. See also, Thijs van de Graaf (n 16) 38-39. See also Edward L. Morse and James Richard, 'The Battle For Energy Dominance' (2002) 81 Foreign Affairs 16 and Jose A. Bolanos, ‘The Political Economy of Oil: The Limits of our Ability to Prevent Failure’ in Slawomir Raszewski (ed), *The International Political Economy Of Oil And Gas* (Palgrave Macmillan 2018) 58-59.

[193] See Honoré Le Leuch in Andreas Goldthau (n 27) 128. See also, María José Paz Antolín and Juan Manuel Ramírez Cendrero n 11.

[194] Ibid.

govern the petroleum sector of the state better, it is expected that the government be well informed about the industry. The international petroleum industry is arguably, today dominated by NOCs, thus making the role of each government even more critical in directing its NOC to operate most efficiently, domestically and internationally.

CHAPTER THREE – NATIONAL OIL COMPANIES IN THE CURRENT GLOBAL PETROLEUM INDUSTRY

3.1 Introduction

The objectives and activities of NOCs will be examined in this chapter, most importantly, the rationale for the establishment of a NOC. Much literature, when defining the key players in the global petroleum industry focuses mainly on OPEC and the IOCs, no primary interest has been paid to the NOCs until recently.[1] Arguably, NOCs are a massive tool of value creation for the management of a state's petroleum resources. In essence, this study seeks to debate the antiquated tag on a NOC when a state seeks to manage its petroleum resources using the NOC model. This study, therefore, believes the NOC, especially in a petroleum-rich state, can assist the state in achieving economic development through the effective management of their petroleum resources.

At a time when government interventions are at an all-time high in their home countries due to the Covid-19 pandemic, it highlights the critical roles government play in the progress and economic development of their country.[2] When it comes to petroleum resources, there is no doubt that the sole aim of any petroleum-rich country, whether a developed or a developing country is to maximise wealth through the exploitation of its petroleum resources. Therefore, if a country wants to achieve the national goal of fully benefitting from the exploitation of its natural (petroleum) resources, the government has a significant, strategic and facilitating role to play. Although, in the critical sense, fully benefitting from these resources would be difficult. However, acceptable levels where a more significant number of the population benefits from the exploration of these resources would be viewed as adequate, to be considered a success.[3]

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[1] Leslie E Grayson, *National Oil Companies* (John Wiley & Sons Ltd 1981) 5.

[2] See 'Government Support Schemes For COVID-19' (*TMF Group*, 2020) <https://www.tmf-group.com/en/news-insights/coronavirus/government-support-schemes/> accessed 1 May 2020. See also, Aimee Manning, 'COVID-19 Updates: US Federal & State Government Relief Programs' (*Linnworks*, 2020) <https://blog.linnworks.com/covid-19-us-government-relief-programs> accessed 1 May 2020.

[3] Victor C. Azubike, 'Critical Government And National Oil Company Role In Their Petroleum Resource Development: Lessons For Guyana Petroleum Sector' (2020) 46 Commonwealth Law Bulletin 461.

The Natural Resource Governance Institute (NRGI), an international non-profit organisation dedicated to the improvement of natural resource governance in their recent publication, advanced further support on the importance of NOCs to the global petroleum industry, and most importantly, the significant roles they play in their home-country economies.[4] As per OPEC's 2018 statistics that were stated in the previous chapter: NOCs control over 90% of the world's oil and gas reserves; as a result, the importance of these government institutions to the global oil and gas industry cannot be exaggerated.[5] Petroleum is an essential commodity, and it is key to the interest of any petroleum-rich state and is usually closely linked to its national security.[6] When it comes to crude reserves, the question of whether these reserves are producing reserves raises another point in determining the percentage.

NOCs play an essential role in both petroleum exporting and importing countries, and one cannot deny that in the present global petroleum industry that the NOCs operate in a political context as much as an economic.[7] According to Jonathan Green, in today's global petroleum industry, NOCs are now a force to be reckoned with, although he calls them the 'international NOCs' .[8] Regarding these

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[4] See 'The National Oil Company Database' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/national_oil_company_database.pdf> accessed 22 July 2019.

[5] Valérie Marcel and John V Mitchell, *Oil Titans: National Oil Companies In The Middle East* (Chatham House 2006) 1; Jennifer Ernst Robinson, 'National Oil Companies And The Dual Mandate: A Balance Between Profitability And Social Development In The Middle East' (2009) 1 Josef Korbel Journal of Advanced International Studies 1-13; John V. Mitchell and Beth Mitchell, 'Structural Crisis in The Oil and Gas Industry' (2014) 64 Energy Policy 36; Donald L. Losman, 'The Rentier State And National Oil Companies: An Economic And Political Perspective' (2010) 64 The Middle East Journal 427; Alexey Bereznoy, 'Catching-Up With Supermajors: The Technology Factor In Building The Competitive Power Of National Oil Companies From Developing Economies' [2018] Industry and Innovation 127.

[6] See Naná de Graaff, 'Oil Elite Networks In A Transforming Global Oil Market' (2012) 53 International Journal of Comparative Sociology 275; Seyed Kamran Bagheri and Alberto Di Minin, 'The Changing Competitive Landscape Of The Global Upstream Petroleum Industry' (2015) 8 The Journal of World Energy Law & Business 1.

[7] See Oystein Noreng, 'National Oil Companies and Their Government Owners: The Politics of Interaction and Control' (1994) 19 The Journal of Energy and Development 197 – 226. See also, Bernard Mommer, 'The Governance Of International Oil: The Changing Rules Of The Game' [2000] Oxford Institute for Energy Studies WPM 26.

[8] Jonathan Green, 'The Rise Of The "International National Oil Companies" And Their Challenge To International Oil Companies' (*Pipeline Technology Conference*, 2008) <https://www.pipeline-conference.com/sites/default/files/papers/P.6%20Green.pdf> accessed 28 December 2018. See also, Shankar Besta, 'Major State-Owned Oil And Gas Companies In The World' (*NS Energy*, 2019) <https://www.nsenergybusiness.com/news/major-state-owned-oil-and-gas-companies-in-the-world/> accessed 29 February 2020.

assertions, this chapter will argue the vital seat occupied by the NOC in the global petroleum industry, and even more so in a petroleum-rich developing state.

3.2 The Meaning of National Oil Companies

Notably, since 1991 nearly 90% of conventional crude oil reserves have been controlled by NOCs. However, this control over petroleum resources during this period has not led to operational efficiency, as the works of Eller et al., suggested.[9] Furthermore, as indicated by Eller et al. this inefficiency stems mainly from how profits are redistributed and the high degree of political influence over these NOCs—granted that most NOCs are used as political tools by their governments. One might argue that with the right policies and legal framework that directs and guides the objectives of the NOCs, they can efficiently perform as well as the IOCs.

Petroleum has been argued to be a political commodity, and the international domain in which petroleum resources are produced and traded is mainly political. Why one may ask? It is debatable that the push to secure access to petroleum resources has always been fundamental to geopolitics and international relations. For instance, energy security has driven international politics, from European imperial expansion and industrialisation in the 19th century and the scramble for raw materials in Africa.[10] The two world wars both had vital resource dimensions, from the struggle to control the iron reserves in Alsace-Lorraine and the oil fields in the Caucasus.[11] Furthermore, petroleum reserves in the Persian Gulf were linked to the Cold War.[12] Therefore, as petroleum resource is the primary business of the NOC, most of these events affect these government-owned institutions, directly or indirectly.

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[9] Stacy L. Eller, Peter R. Hartley and Kenneth B. Medlock, 'Empirical Evidence on the Operational Efficiency of National Oil Companies' (2010) 40 Empirical Economics. See also, Chidi Basil Ike and Hyunjung Lee, 'Measurement Of The Efficiency And Productivity Of National Oil Companies And Its Determinants' (2014) 17 Geosystem Engineering; Peter Hartley and Kenneth B. Medlock, 'A Model Of The Operation And Development Of A National Oil Company' (2008) 30 Energy Economics 2460; Paul Markwell and others, 'The New Frontier For National Oil Companies' [2014] SSRN Electronic Journal.

[10] See Roland Dannreuther, Geopolitics and International Relations of Resources in Wojciech Ostrowski and Roland Dannreuther (eds.), *Global Resources Conflict And Cooperation* (Palgrave Macmillan 2013) 79-81 and Caroline Kuzemko, Andrew Lawrence and Matthew Watson, 'New Directions In The International Political Economy Of Energy' (2019) 26 Review of International Political Economy 1.

[11] Ibid.

[12] Ibid.

However, in reality, NOCs should be concerned with the overall economics and industrial matters rather than the political side of the industry.[13] Although this might be true in some countries, it is clear that NOCs are always affected and influenced by politics, especially the NOCs from a developing state. This is so because the government develops the petroleum policies, and the legal framework that guides the NOCs and appoints the board of directors, and in many cases subsidise the operations of the NOCs.[14]

3.2.1 Defining a National Oil Company

In today's global petroleum industry, the definition of a National Oil Company cannot be restricted to one. In an attempt to define the term national oil companies while noting the ambiguity of the term, Grayson stated that when a company is being used for a public purpose, it can be said to be a national oil company.[15] However, this social purpose has to be connected to the management of the states petroleum resources, as states do have different government entities that manage different resources and sectors. Furthermore, Paul Stevens defined a NOC as 'an oil and gas company operating in some part of the oil and gas value chain owned and controlled by the government'.[16] In other words, NOCs were created to ensure state control over any country's petroleum resources and to ensure higher revenues from petroleum production.[17] High revenue and achieving economic development through the effective management of petroleum resources became the primary purpose of establishing a NOC. However, the ability of these NOCs to achieve these goals is another matter altogether.

Historically, the 1960s and early 1970s marked the end of European colonial rule and the rise of nationalist movements, which gave impetus to several major oil-

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[13] Valérie Marcel and John V Mitchell (n 5) 3 – 4. See also, Dag Harald Claes, *The Politics Of Oil-Producer Cooperation* (Routledge 2018) 2.
[14] Valérie Marcel and John V Mitchell (n 5) 4.
[15] Leslie E Grayson (n 1) 5.
[16] Paul Stevens, 'National Oil Companies: Good Or Bad' (2003) <https://pdfs.semanticscholar.org/49e9/e0b16dd0bb57fbb6c996ec0f5c5cfb2babbd.pdf> accessed 4 February 2018.
[17] See 'National Oil Companies (NOCs)' (*Extractives Hub*, 2020) <https://extractiveshub.org/servefile/getFile/id/4220> accessed 27 February 2020.

producing nations to nationalise their petroleum reserves to regain control from foreign oil companies that were not serving the national interests of the host government.[18] Today there are many varieties and different forms of NOCs.[19] These range on the one hand, from NOCs set up by a government through legislation, owned entirely by the government and given exclusive rights over the natural resources of the state to NOCs that are partly owned by the government with a similar structure to a private company.[20] NOCs like Petrobras of Brazil, PDVSA of Venezuela, Saudi Aramco of Saudi Arabia, NNPC of Nigeria and Statoil of Norway all represent the different forms.[21] There are two types of NOCs, the NOCs established by an oil and gas importing government and NOCs established by an oil and gas producing and exporting government.[22] In increasing the bargaining position of a state in the global petroleum industry, its NOC has always been seen as the most suitable way to do so and also to be the best tool to develop relevant technical and commercial expertise.[23] As agents of their government NOCs have taken up a proactive role in their domestic petroleum industry and also abroad.[24]

Accordingly, for this study, a NOC can be said to be any petroleum corporation set up by a sovereign state, for the primary purpose of managing, exploring and exploiting the petroleum resource or seeking out petroleum resources on behalf of the state.[25] Essentially, a NOC is a petroleum enterprise where the government have a significant equity share. This percentage has to be 50% and above; this signifies the controlling shares. Building on that, a NOC is usually characterised by the higher level or percentage of interest held by the state government in the company. Today, British Petroleum cannot be characterised as a NOC because the

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[18] The Changing Role of National Oil Companies in International Energy Markets', (The James A Baker III Institute for Public Policy of Rice University 2007) <http://large.stanford.edu/publications/coal/references/baker/studies/noc/docs/BI_Study_35-1.pdf> accessed 5 February 2018; Valérie Marcel and John V Mitchell (n 5) 5.
[19] Silvana Tordo, Brandon S. Tracy and Noora Arfaa, *National Oil Companies And Value Creation* (World Bank working paper 2011) 15.
[20] See Valérie Marcel and John V Mitchell (n 5) 5 – 6.
[21] Ibid.
[22] See Oystein Noreng n 5. See also, Brent Steedman, 'The Rise Of The National Oil Companies And Impact On Australia' (2009) 49 The APPEA Journal 591.
[23] Ibid. See also, Leon Moller, 'The Governance of Oil and Gas Operations in Hostile but Attractive Regions: West Africa' (2013) 11 Oil, Gas & Energy Law Intelligence.
[24] Ibid.
[25] See Oystein Noreng, (n 5) Leslie E Grayson (n 1) 5.

British government does not have a controlling stake in the company.[26] The importance of knowing the extent of the government stake in the NOC will help an observer to determine the level of control that the government exerts over the NOC. As this study will be focused on the Nigerian National Petroleum Corporation (NNPC), and the Norwegian NOC - Equinor (formerly Statoil), it is, therefore, pertinent to distinguish the stakes of the government in each NOC. While NNPC is 100% owned by the Nigerian government today, Equinor is over 60% owned by the Norwegian government which still gives it the controlling power.[27]

NOCs controlling petroleum reserves can be beneficial to a state, as long as the control results in the efficient redistribution of the petroleum resource revenue that benefits the people of the state. To assert that the petroleum industry will be overtaken by political objectives if the NOCs continue to assert their control over it, is very debatable.[28] If one follows the history of the global petroleum industry, even when it was controlled by the IOCS (seven sisters), one can see that politics and petroleum resources go hand in hand. Hence, that is why petroleum resources are usually referred to as political commodities.

Rather than discouraging the continuation of state control and ownership over their petroleum industry, the direction should be to encourage these states, and their NOCs to adopt efficient methods through strong petroleum industry policies and legal frameworks.[29] When a government is endowed with petroleum resources, it is usually assumed that the way its resources are regulated, or the regulatory framework which guides its petroleum industry, will show the objectives and aims of the government, and what it seeks to achieve. For example, this can be observed in the tax policies adopted by Russia, which points to a broader economic and geostrategic rationale, which shows the government's desire to use the control of its petroleum resources to build its economy and at the same time reassert its authority in the global petroleum industry. However,

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[26] Ibid.
[27] See Statoil 'Our Shareholders - Statoil.Com' (*Statoil.com*, 2018) <https://www.statoil.com/en/investors/our-dividend/our-shareholders.html> accessed 12 February 2018 and 'NNPC Corporate Info' (*Nnpcgroup.com*, 2018) <http://nnpcgroup.com/AboutNNPC/CorporateInfo.aspx> accessed 3 December 2018.
[28] See Stacy L. Eller, Peter R. Hartley and Kenneth B. Medlock (n 9).
[29] Harley Balzer, 'The Putin Thesis And Russian Energy Policy' (2005) 21 Post-Soviet Affairs 210.

this strategy has been argued as a means used by the Russian government to destroy Yukos.[30]

Furthermore, it is vital for a country that is blessed with an abundance of petroleum resources to perfect their legislation that concerns these natural resources, also perfecting the economic mechanisms for the resource exploitation and, defining and rectifying the system of licensing and regulations in the area of the exploitation of its petroleum resources.[31] It is also important to mention that within petroleum-producing countries, their various NOCs differ from each other. While in some of these countries the NOCs participate with other companies or IOCs in a licensing regime, others exercise complete state ownership and control of exploitation.[32]

Yergin et al. pointed out that the birth of the NOCs is generally described as being the event that took place in 1908 in Austria-Hungary Emperor Franz Joseph approved the building of a topping plant. During that period private oil producers encountered a surplus supply of crude, and this topping plant was owned and operated by the government.[33] Mcpherson pointed out that as the need to secure energy supplies grew in the minds of Western governments the need to establish a government entity that would achieve the security and diversity of energy supply while going into contracts with IOCs on behalf of the state also grew.[34] What followed in the coming years was the establishment of NOCs by various governments around the world. For a chronological order of the establishment of some NOCs up to 2015.

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[30] Ibid.

[31] Ibid.

[32] Coby van der Linde, *The State and The International Oil Market* (Kluwer Academic Publishers 2000) 12–13.

[33] In 1914 the government of United Kingdom purchased 51% ownership share in Anglo-Persian Oil Company (which later became British Petroleum). See Daniel Yergin, *The Prize* (Simon & Schuster 2012) 130; Andrew C. Inkpen and Michael H Moffett, *The global oil & gas industry: Management, strategy and finance* (PennWell Books 2011) 52 – 55 and Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 16.

[34] Charles Mcpherson and World Bank Group, 'National Oil Companies Evolution, Issues, Outlook National Oil Companies Workshop Current Roles and Future Prospects' (World Bank Washington D.C. 2003)

Table 1. Some Established NOCs in Chronological order

Year	Country	Company
1922	Argentina	YPF
1924	France	CFP
1924	Italy	AGIP
1933	Saudi Arabia	Saudi Aramco
1938	Mexico	PEMEX
1951	Iran	NIOC
1953	Brazil	Petrobras
1956	India	ONGC
1960	Kuwait	KNPC
1965	Algeria	Sonatrach
1971	Indonesia	Pertamina
1971	Nigeria	NNOC
1971	United Arab Emirates	ADNOC
1972	Norway	Equinor
1974	Malaysia	Petronas
1975	Venezuela	PDVSA
1975	Canada	Petro-Canada
1975	United Kingdom	BNOC
1976	Angola	Sonangol
1982	China	CNOOC
2000	China	Sinopec
2002	Equatorial Guinea	GEPetrol
2006	Chad	SHT
2015	Uganda	National Oil Company

Source: Compiled by author from various sources.

It is important to note, that Mexico set up Petróleos Mexicanos (Pemex) in 1938 specifically to expropriate and nationalise the foreign assets of companies in the country.[35] The establishment of NOCs continued to 2000, and these NOCs were set up by both petroleum importing and exporting governments. Today, there are many NOCs in both petroleum exporting and importing states with different government mandates. Some of these NOCs are listed in Appendix 1.

With the importance attached to the petroleum industry and the historical dominance of IOCs over the industry, resource-rich states would exert control

[35] Andrew C. Inkpen and Michael H Moffett (n 32) 52 – 55; Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 18) 16 – 19; Charles Mcpherson and World Bank Group n 33; David G Victor, David R Hults and Mark Thurber (eds.) *Oil and Governance* (Cambridge University Press 2014) 5 – 8; Donald Mmari and Sufian Bukurura, 'Strategic Significance Of National Oil Companies: Lessons For Tanzania' [2016] REPOA, Working paper 16/3; Paul Stevens, 'The History of Oil' [2010] POLINARES Working Paper.

over their resources, mainly by setting up a NOC.[36] As an illustration, due to the significance of the oil and gas industry, the French government took legislative and regulatory steps to control the activities of the industry as early as the First World War.[37] Tugendhat and Hamilton stated:

> The dominance of the IOCs may owe much to historical accident, to intrigue, manipulation and to the past realities of imperialism and geo-political power in the world. But it also owes much to the basic need in the sources with markets and growth with investment.[38]

Rawlings observed that the periods of resource nationalism and participation agreements in the global petroleum industry was a time of learning for the NOCs, as they acquired ownership over their natural resources which led them to learn how to operate their fields independent of the IOCs.[39] Although over the years, many NOCs have become inefficient in their operations as pointed out by Eller et al.[40] This might be true to a certain level and also applicable to some NOCs. A point often overlooked is that a NOC model is evident in the sense that it belongs to the state, and is tasked with carrying out the objectives of the government. At the same time, an IOC is mostly considered as carrying out the goals set by its board or shareholders.[41] It is also significant to note that IOCs do have a national identity, as most of its shareholders and executive staff come from one country and its head office is located in one country. It will be assumed that its corporate culture will be developed within the national framework of that country.[42] Some developing states are still dependent on IOCs to develop the states' natural resources, thus relegating the NOC to the role of rent collecting.[43] There is,

[36] Alain Beltran, 'A Comparative History of National Oil Companies: Introduction' in Alain Beltran (ed.), *A Comparative History of National Oil Companies* (PIE-Peter Lang SA 2010) 9.
Joint venture agreements and production sharing agreements regulate the relationship between the IOCs and the NOCs today. Oher contractual relationships between the NOC and IOCs do exist, like the royalty-based licensing systems that are used in Namibia and South Africa. See also, Leon Moller n 23.
[37] See André Philippon, The French Example: The 1928s Laws, Longevity and Effectiveness of the Approach to Creating and Maintaining a National Oil Industry in a Consumer Country – Appearances and Realities in Alain Beltran (ed.), *A Comparative History of National Oil Companies* (PIE-Peter Lang SA 2010) 21 – 22.
[38] See Christopher Tugendhat and Adrian Hamilton, *Oil The Biggest Business* (Eyre Methuen Ltd 1975) 381.
[39] A. A Rawlings, 'The Rise of the National Oil Company - Implications for International Oil Companies' (2015) 13(6) Oil, Gas & Energy Law Intelligence 1–18; Also see Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 29.
[40] Stacy L. Eller, Peter R. Hartley and Kenneth B. Medlock (n 9).
[41] See Alain Beltran (ed.) (n 35) 9; Samir Saul, 'SN REPAL, CFP and "Oil-Paid-in-Francs" in Alain Beltran (ed.) (n 36) 93.
[42] Ibid.
[43] A. A Rawlings (n 39).

therefore, a need to understand why, after many years of exploitation of natural resources, a petroleum-rich developing country still cannot show evidence of progressive economic development, whether in technical or infrastructure development.

3.3 The Rationale For NOC

There are many reason why NOCs have been established. Professor Paul Stevens alluded that various arguments exist about the rationale for forming a NOC; from political reasons based upon the sovereignty and economic nationalism to the need to feed national pride and give the petroleum resource state a sense of independence from the West.[44] In like manner, petroleum resources have been seen to be a very nationalistic commodity.[45] Further, Mommer remarked that the First Arab Petroleum Congress was held in Cairo in 1959, and there a "gentlemen's agreement" was reached between the participating petroleum exporting states to establish NOCs, thus leading to the forming of OPEC in the following years.[46] One might argue that the desire of petroleum producing countries to exercise their sovereign rights over their petroleum resources has led to the formation of most NOCs today.[47] Other significant incidents could be said to have contributed to this, some of which will be discussed in the next chapter.

The relatively recent phenomenon of NOCs has to be understood against the background of global petroleum industry history, bearing in mind that, its present shape has been determined by general conditions as they have developed through the century.[48] It is assumed that, all NOCs are created to pursue national-orientated policies, although all NOCs are not the same. Thus the difference in their status depends on whether they are from a petroleum-producing exporting

[44] Paul Stevens, 'National Oil Companies And International Oil Companies In The Middle East: Under The Shadow Of Government And The Resource Nationalism Cycle' (2008) 1 The Journal of World Energy Law & Business 5.
[45] See Andrew Lister, 'Tax And Royalty Regimes', *Stephenson Harwood LLP: Three-day Workshop for National Oil Companies* (CW Energy LLP 2020).
[46] See Bernard Mommer n 5. See also, Francisco Parra, *Oil Politics: A Modern History Of Petroleum* (IB Tauris 2004) 93-96 and Anthony Sampson, *The Seven Sisters: The Great Oil Companies And The World They Made* (Hodder and Stoughton 1993) 209.
[47] Michael A. Olorunfemi 'The Dynamics Of National Oil Companies' (1991) 15 OPEC Review 321.
[48] See Paul H. Vrankel, 'The Rationale Of National Oil Companies' (1978) 2 OPEC Review 46.

country or a petroleum importing country.[49] Furthermore, the ability to gain first-hand knowledge of the inner workings of the petroleum industry was one of the reasons put forward for the creation of NOCs by the governments for them to be used as an industrial tool.[50] The length of time it has taken to learn the inner workings of the petroleum industry, is a point that industry commentators have not agreed on.

The reasons for the establishment of a NOC vary from one state to the other.[51] There have been different comments on the rationale for forming NOCs, whether in a developing country, where they have been established as a tool to gain popular support from the people.[52] The reasons for the creation of the NOCs and their roles differ from nation to nation.[53] In a developing natural resource-rich state, these can vary from political, ideological to economic.[54] Also referred to as National Resource Companies (NRCs), Cameron and Stanley asserted that these government set up companies are now increasingly popular in petroleum resource-producing countries it goes without saying that they are beyond controversy.[55]

Donald Losman, in his work on NOCs, argued that many NOCs were established partly as a result of the historical feeble bargaining positions of petroleum-rich states concerning the IOCs strong position and also partly on ideology.[56] Therefore, it is essential to understand the historical context in which the NOCs were established.[57] To have a better grasp of NOCs, one must take into account the historical, political and socio-economic context in which the NOCs were formed and in which they developed.[58] It is anticipated that a detailed and critical analysis of Equinor of Norway and NNPC of Nigeria will be carried out in chapter 6. Some

[49] Ibid.
[50] Ibid.
[51] See David G Victor, David R Hults and Mark Thurber (eds.) (n 18) 8 – 9. Kameel I.F. Khan, National Oil Companies: Form, structure, accountability and Control in Khan (ed), *Petroleum Resources And Development* (Belhaven 1988) 185.
[52] Ibid.
[53] Ibid.
[54] Andrews D. C. Smith and Michael J. Trebilcock, 'State-Owned Enterprises In Less Developed Countries: Privatisation And Alternative Reform Strategies' (2001) 12 European Journal of Law and Economics 217.
[55] Peter Cameron and Michael Stanley, *The Extractive Industries Sourcebook* (World Bank Group 2017) 64.
[56] Donald L. Losman n 2.
[57] See Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 29. See also Andrews D. C. Smith and Michael J. Trebilcock n 54.
[58] Ibid.

NOCs came about as a result of asset nationalisation of the IOCs who were seen to be against or exploiting the state. Their goals of maximising profit were damaging to the national interest where they explore but benefitted the IOCs governments.[59] Important to note that one of the most popular nationalisations in the global petroleum industry was witnessed in Mexico.

The majority of OPEC NOCs started getting involved in the petroleum industry in the early 1970s. However, one might argue that they have limited experience in the industry. It is pertinent to note the critical role they play in the global petroleum industry, as in many cases they have taken the leading role in managing the business of producing and exporting oil and gas.[60]

The following events that unfolded are still unfolding in the global petroleum industry. NOCs have been formed for various reasons, from the need for the government to secure energy for the state, to the need for state control over its abundant petroleum resources. It could be that a country responds to the directives of OPEC, or the assertion of state sovereignty over its natural resources, which made the NOC a symbol of independence for the state in the post-colonial world and against the imperialist governments that were adverse to the interests of the nation.[61]

Countries set up NOCs for various reasons, but the establishment of NOC is more notable in countries which have abundant natural resources within their territories. Although the lack of abundance of natural resources has not been known to hinder the establishment of a NOC, this was demonstrated by Italy, who compared to other Western European countries did not have the abundance of natural resources. However, it still established its NOC ENI (Ente Nationale Idrocarburi), and its subsidiary Azienda Generale di Petrolio (AGIP).[62] Furthermore, Leslie Grayson observed that as Italy's petroleum industry could not attract IOCs into its

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[59] See Bianca Sarbu *Ownership and Control of Oil: Explaining Policy Choices Across Producing Countries* (Routledge 2014) 35. See also Giacomo Luciani, 'Corporations vs. States in the Shaping of Global Oil Regimes' in Wojciech Ostrowski and Roland Dannreuther (eds) 132-133.

[60] H.E. Ali M. Jaidah, 'Problems And Prospects Of State Petroleum Enterprises In OPEC Countries' (1978) 2 OPEC Review 1. See also, Øystein Noreng, *Crude Power* (IB Tauris 2002) 17 - 26.

[61] See Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 18) 22 – 29; Leslie E Grayson (n 1); Michael A. Olorunfemi n 46; H.E. Ali M. Jaidah (n 59); Paul H. Vrankel (n 47) and Paul Stevens n 43.

[62] See Leslie E Grayson (n 1) 107 – 108.

upstream exploration and production (E&P), perhaps due to the unattractive commercial quantity of their reserves, the government did not sit down and complain about their dilemma, they took some action which started with the establishment of ENI, and its subsidiary AGIP responsible for petroleum E&P both home and abroad.[63] It could be said that concerns over energy security were the main reason ENI was created. There was an apparent need for a national establishment that could go abroad while representing the state and seek out energy sources for Italy.[64]

In 1972 the Norwegian governments in a bid to take over the activities involved in the exploitation of its petroleum resources established a NOC Equinor (former Statoil).[65] The present-day reputation and competence of Equinor were not built overnight. The government even suspended giving out new concessions from 1974 to 1978, to help Equinor develop and build up its competence in the industry.[66] This took time, and Equinor was not operational until the early 1980s when it led other Norwegian companies in the take-over of major offshore activities in NCS.[67]

Consequently, the establishment and maintaining of a NOC is built on statist ideology where the critical factor is the underpinning of state control over the petroleum resources.[68] Some NOCs from petroleum producing and exporting countries have evolved from being tools of government policies to being commercial enterprises.[69] This arguably should be the goal for most NOCs, and therefore requires government petroleum regulatory support to achieve these commercial objectives.

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[63] Ibid.

[64] This ENI and AGIP achieved, by successfully seeking concessions abroad, which started in Iran and Egypt in 1957. Uniquely, they offered more favourable terms to host governments, than the oil majors did. See Francisco Parra (n 45) 50.

[65] Additionally, after the reorganisation of the petroleum industry, in 1985 in a bid to retain oil money while promoting direct investment in the sector the Norwegian government split the operations between Statoil and the SDFI. See 'Norway’s Petroleum History' (*Norwegian Petroleum*, 2020) <https://www.norskpetroleum.no/en/framework/norways-petroleum-history/> accessed 28 May 2020. See also, Andrew McKay, 'Black Gold: Norway's Oil Story' (*Life in Norway*, 2019) <https://www.lifeinnorway.net/norway-oil-history/> accessed 28 May 2020.

[66] See Svein S Andersen *The Struggle Over North Sea Oil And Gas: Government Strategies In Denmark, Britain And Norway* (Scandinavian University Press 1993) 98.

[67] Ibid.

[68] David G Victor, David R Hults and Mark Thurber (eds.) (n 18) 9.

[69] See Michael A. Olorunfemi n 47.

In implementing the upstream oil and gas industry in any state, there are various tools through which this is achieved, and the creation of a NOC is one of the vital tools, as NOCs and State-Owned Enterprises (SOEs) are the tools used by political leaders in exerting control over the management of a petroleum resources of the country.[70] Furthermore, the fact that these institutions are present in the state does not automatically make the country a capitalist state.[71] Most important is how these tools are used and not the tools themselves.[72] Norway is an example of a state that manages its natural resources well through its tool, which is Equinor (StatoilHydro) in which the government owns over 60% of the corporation. The government manages the Sovereign Wealth Fund (SWF) of the country.[73]

In ensuring the coherence and coordination of other policy tools and the NOC,[74] it is to be noted, that NOCs vary and this depends on the level of competition each faces in the market it operates, the degree of commercial orientation and internationalisation.[75] Likewise, arguments for maintaining NOCs are usually more cogent from the political leaders because as a generator of profit, when compared with IOCs, NOCs usually underperform.[76] According to Sarbu, as the level of relevance of the petroleum industry to the producing countries grew in their domestic economy, it became vital for the state to establish a NOC as a tool to exert control over its oil and gas industry.[77]

There may be empirical evidence against the maintenance of NOCs. One of the arguments in this study is to understand the rationale and mindset of Western governments when they established their NOCs. However, considering that some later were privatised, should developing countries also have a period of this control over their petroleum resources through their NOCs as evidenced in some Western states, before moving towards the liberal market option?

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[70] See Ian Bremmer, 'The End Of The Free Market: Who Wins The War Between States And Corporations?' (2010) 24 Ethics & International Affairs 249 – 252.
[71] Ibid.
[72] Ibid.
[73] Ibid.
[74] See Bianca Sarbu (n 59) 34. See Benjamin Bridgman, Victor Gomes and Arilton Teixeira, 'The Threat Of Competition Enhances Productivity' (*Economicdynamics.org*, 2008) <https://www.economicdynamics.org/meetpapers/2008/paper_302.pdf> accessed 27 November 2018.
[75] Ibid.
[76] David G Victor, David R Hults and Mark Thurber (eds) (n 18) 10.
[77] See Bianca Sarbu (n 59) 36.

The creation of a NOC helped the state to control its resources appropriately, and brought with it international and domestic political advantage.[78] Another reason for an NOC creation is the benefit of state control, through direct involvement in the activity of the oil and gas industry through its NOC it can be involved in solving the wider socio-economic issues.[79] Another view is that the establishment of NOCs enable the oil and gas producing states to nationalise their resources, as it gave them the technical and organisational competence to take control of the operations of the IOCs.[80] Similarly, Victor et al. also remarked that governments when establishing NOCs were driven by the fact that state ownership of the petroleum resources would assist the government to effectively promote and control economic development, redistribute the income attained from the petroleum resources, and promote national pride.[81] How well this worked out for the majority of the governments that setup NOCs for this purpose is yet to be evidenced.

Paul Vrankel stated that NOCs played a vital role in what one could call the phase of emancipation and self-determination and will be called upon to provide the foundation for the period of coexistence and coordination.[82] In the same fashion, debates over the benefits of NOCs to the average citizen of any state has been on-going for a while, and some theories have been put forward to argue for and against the running of the petroleum industry by a NOC. Evidently, when NOCs are well managed and guided by the legal framework and petroleum policies they can be highly beneficial to the people of the country. As a result, the delivery of substantial value to shareholders through the fiscal revenue contributions to the treasury of a state, successful exploration efforts, and the development of new skills and technologies is usually a mark of effective NOCs.[83]

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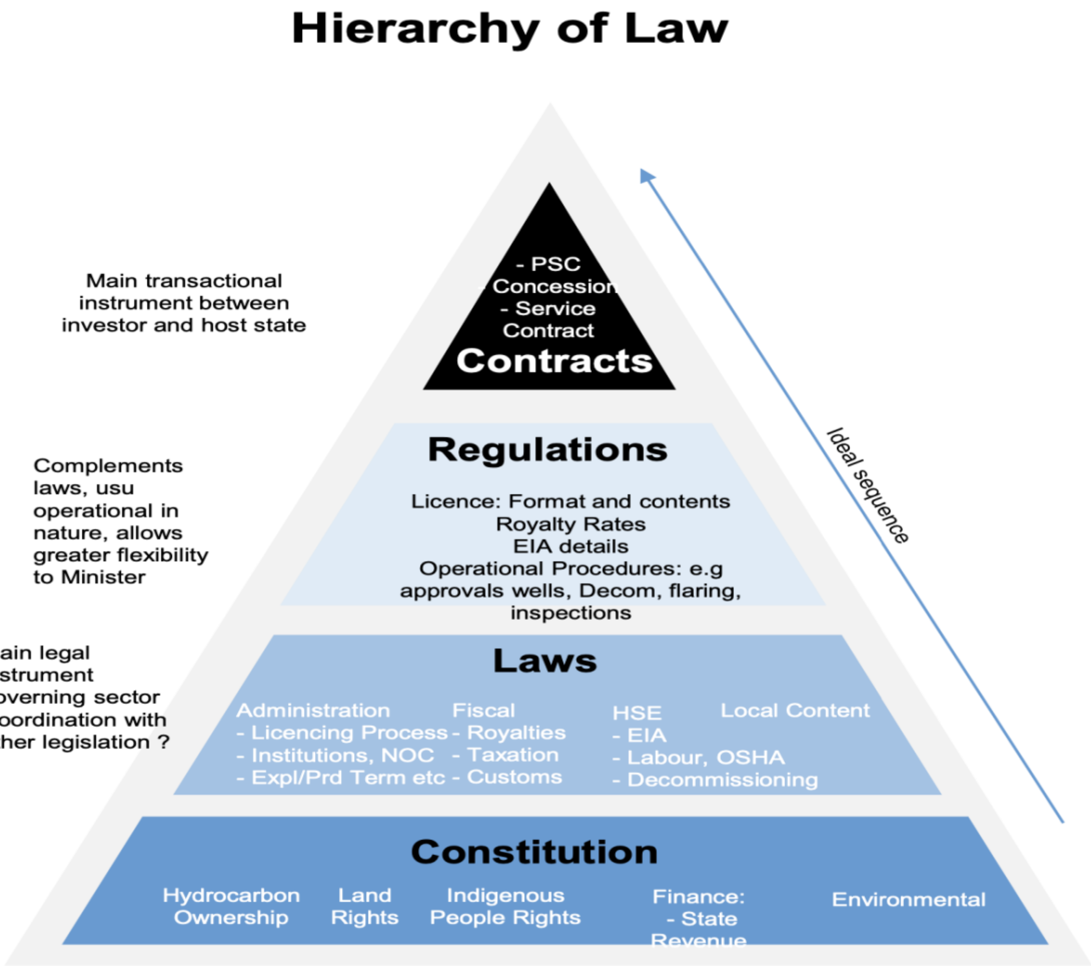
[78] See Bianca Sarbu (n 59) 36. See also, Valérie Marcel and John V Mitchell (n 3) 29 -30.
[79] Ibid.
[80] Ibid.
[81] David G Victor, David R Hults and Mark Thurber (eds) (n 18) 8 – 9. See also, Donald L. Losman n 2; Ole Gunnar Austvik, 'Landlord And Entrepreneur: The Shifting Roles Of The State In Norwegian Oil And Gas Policy' (2011) 25 Governance 315, and Paul Stevens n 43.
[82] Paul H. Vrankel n 47.
[83] See The National Oil Company Database: Report (*National Oil Company Database*, 2019) <https://www.nationaloilcompanydata.org/api/publications/content/NFInSnhdYNC4ntCohaYqok1u2jHAG4vvLXK1jwrL.pdf> accessed 25 June 2019.

The boosting of national pride can be linked to the creation of a NOC, which leads to state control over its petroleum industry without any foreign interference.[84] There has to be a regulatory framework that supports this state control, for instance, the legal framework for exploration, development and production of petroleum reserves in the oil and gas producing countries is usually set down in the constitution of the country, with hydrocarbon laws and regulations.[85] According to Sarbu, these legal arrangements and fiscal components allow for all possible combinations of control: private control, state control, and mixed control by the state.[86]

For a better grasp of the conceptual order of the legal framework applicable to the petroleum industry, see the following diagram by Fisho and Ogeer which is generally applicable to the petroleum sector:

[84] See Bianca Sarbu (n 59) 36 – 37.
[85] Ibid.
[86] Ibid.

Figure 5: Conceptual Order of Petroleum Legal Framework



Source: culled from Alache Fisho and Naadira Ogeer, 2020.[87]

It can be seen from the diagram that the constitution acts as the building block for the petroleum legal framework. By means of this order, most NOCs emerged. Through these legal frameworks, the roles of the NOCs are seen, also the parts they play in assisting the government in efficiently managing the state's petroleum resources and creating value for the people of the state. Further, Waelde asserted that the need for a legislative instrument that would be used to exert political control was not only restricted to developing countries. Even the transitional-economies needed a NOC for the control, but there has been a movement towards the privatisation of NOCs, as observed in BP, TOTAL, Elf, REPSOL and Petro-

[87] Alache Fisho and Naadira Ogeer, 'NOC And Government Negotiating Tactics', *Stephenson Harwood Law, London* (Commonwealth Secretariat 2020).

Canada who moved towards a more liberalised regime and replaced the government ownership model.[88]

An instance of state ownership and control of petroleum resources can be observed in the UKCS. The UK Department of Energy (DEN) published a paper in early May 1974, proposing that there should be a state entity that will ensure the security of revenue for the government, exercise control over the distribution of oil and its direct participation in the production, maybe including exploration in later licences.[89] Further, DEN considered the argument that the department was not suitable for undertaking commercial activities; thus a separate new body was seen to be appropriate, through which the government could exert control over the exploitation of its resources.[90] This led to the birth and establishment of the British National Oil Corporation (BNOC).[91] The primary intention is that these bodies would work in the national interest, complementing the work of a NOC, and to that end, the British National Oil Corporation (BNOC) was set up on 1 January 1976.[92] BNOC took over the oil and gas assets of the National Coal Board, which had been a risk-taking partner in a consortium with Conoco and Gulf since the 1960s.[93]

Arguments in favour of the NOCs can span from the historical context, as the geopolitical scene and the context in which NOCs were established have an impact on the NOC's structure.[94] The following are important to the petroleum sector, the political gains from state control, efficiency and monitoring of operations, petroleum rent maximisation and socioeconomic issues and priorities.[95] Nevertheless, the roles and behaviours of the NOCs today are not what it used to be in the 1970s. 1970s NOCs were involved mainly in the domestic petroleum

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[88] See Thomas W. Waelde 'International Energy Investment' (1996) 17 Energy Law Journal 191. See also, Donald Mmari and Sufian Bukurura n 34.
[89] See Alexander G Kemp, *The Official History Of North Sea Oil And Gas* (Routledge 2012) 341 – 343. See also Bernard Mommer, *Global Oil And The Nation State* (Oxford University Press 2002) 186.
[90] Ibid.
[91] Ibid.
[92] See R.J.P. Ross, 'The Government as Entrepreneur: with Special Reference to the United Kingdom in Khan (ed) (n 50) 198-204.
[93] Ibid.
[94] See Valérie Marcel and John V Mitchell (n 3) 36.
[95] Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 22 – 24.

industry while today many NOCs extend their activities globally.[96] Thus, the NOC-NOC alliance that is occurring in the industry is something that did not happen in the old global petroleum industry structure.

NOCs can come in different forms; whether it is a monopoly or participates within the global petroleum market, variations in their degree of commercial orientation and internationalization elucidate the forms in which NOCs come.[97] Concerning the UKCS, Professor Kemp observed that although BNOC was granted commercial participation licences, it was expected that it would not behave purely like a commercial licensee as the main objective was to enable the government to covertly influence the licensees' decisions in the interest of the nation, which sometimes would go against the commercial interest of BNOC.[98] On the other side of the debate, analysis of the increased number of NOCs and their control over global petroleum resources, has the reservation that this will lead to the majority of petroleum developments to be made with political objectives in mind, which in turn will result in inefficiencies in the production of revenues because the pursuit of more commercial objectives will be limited.[99]

The performance of NOCs and their commercial efficiency has been one of the major arguments against the setting up of a NOC. From the historical context and the ideology behind the establishment of a NOC there is a perception that the IOCs over the years have short-changed the country during the period it developed its petroleum resources. This can interfere with how these states embark on the exploitation of its petroleum resources and by extension, the maximisation of economic efficiency and the generation of social welfare from the exploitation of the petroleum resources.[100] The economic cost of political control, operational inefficiencies, lack of competition, subsidies and non-commercial objectives, weak corporate governance, funding strategy and requirements and conflict of interests and balance of control all sum up the cogent arguments against the establishment of a NOC in a petroleum endowed country.[101] Waelde

[96] See Dag Harald Claes, 'Cooperation and Conflict in Oil and Gas Markets' in Andreas Goldthau, *The Handbook of Global Energy Policy* (John Wiley & Sons Inc 2013) 181.
[97] Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 22.
[98] Alexander G Kemp (n 89) 356.
[99] Dag Harald Claes in Andreas Goldthau (n. 96) 181.
[100] See Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 19) 24-29; Paul Stevens (n 43).
[101] Ibid.

stated that soon government participation either by equity or regulation in the petroleum operations would diminish.[102] If that were to be the case today, then the presence of these strong NOCs dominating the global petroleum industry would not be so. However, he recognised that NOCs were of symbolic economic and political importance to the state, being used as a means for the expression of national ownership, control and management of its petroleum resources and industry.[103]

3.3.1 Examples of NOCs in Developing and Developed Countries

The analysis of Norway and Nigeria's petroleum industry in this chapter serves as an overview. Extensive and critical analysis will be carried out in chapter 6 of the legal frameworks adopted by Nigeria and Norway. It is important to understand the rationale for the establishment of these two NOCs. Together with the factors that influenced the frameworks and policies that were adopted by these two governments and how well has it helped them in harnessing the benefits from the exploitation of its petroleum resources.[104] Collier and Venables, grouped Nigeria amongst the eight country's that has failed to harness the full potential of their natural resources.[105] There is an impact of a robust petroleum policy and legal framework on the socio-development of a state.

The Nigerian NOC - NNPC

In a bid by the Nigerian government in the late 1970s to exert control over its petroleum resources and industry, it created the Nigerian National Oil Company (NNOC) in 1971, which then went on to become the Nigerian National Petroleum Corporation (NNPC) after merging with the Petroleum Inspectorate in 1977.[106]

[102] See Thomas W. Waelde n 88.
[103] Ibid.
[104] See Paul Collier and Anthony J. Venables, 'Key Decisions for resource Management: Principles and Practice in Paul Collier and Anthony Venables (eds), *Plundered Nations?* (Palgrave Macmillan 2011)1-2; Per Heum and others, 'Enhancement Of Local Content In The Upstream Oil And Gas Industry In Nigeria: A Comprehensive And Viable Policy Approach' (2003) SNF Report No. 25/03 Institute for Research in Economics and Business Administration.
[105] Ibid.
[106] Eze Emem Chioma, 'How Has The Ability Of The NNPC To Make A Profit Been Hampered By The Retention Of Its Corporate Status As A Statutory Body Rather Than As A Separate Legal Entity Under The NNPC Act 1977?' (2015) 8 International Energy Law Review 304; Ike Oguine, 'Nigerian Content In The Nigerian Petroleum Industry: Legal And Policy Issues' (2011) 29 Journal of Energy & Natural Resources Law 405; Cyril I. Obi, 'The

The Petroleum 1969 Act was the first statutory regime and framework that defined the structure of the petroleum sector of Nigeria.[107] This act structured the legal relationships in the country's oil and gas industry.[108] Some of these legal relationships are joint venture agreements, participation agreements, production sharing agreements and service contracts.[109]

The latest legislation restructuring the Nigerian petroleum industry in the form of the Petroleum Industry Governance Bill (PIGB) is proposed to aid the government to embark on industry restructuring, especially the country's upstream petroleum industry.[110] It is pertinent to look at Nigeria's upstream industry through the lens of a structured upstream petroleum industry like Norway. In doing that, the NOC of both countries will be in focus and the legal framework too.[111] Significantly, the federal government's control over petroleum resources was achieved when Nigeria was ruled by a military regime.[112] Arguably, the military regime did not invest the revenues in creating conditions for sustainable development, which Omorogbe considered to be a catastrophic failure of public policy.[113] Instead, the petroleum resources became an instrument of politics. Hence, the seat now occupied by the country's NOC. NNPC arguably was created to champion the petroleum course of the country. However, with an underly tone of resource nationalism, the need to have a government entity managing the petroleum resources was deemed adequate. As an OPEC member state, the directive of OPEC for a member state to establish a NOC was a factor.

Petroleum Industry: A Paradox Or (Sp)Oiler Of Development?' (2010) 28 Journal of Contemporary African Studies 443.

[107] Adedolapo A. Akinrele, 'Transparency in the Nigerian oil and gas industry' (2014) 7(3) The Journal of World Energy Law & Business 220 – 235.

[108] See Yinka Omorogbe, 'The Legal Framework for The Production Of Petroleum In Nigeria' (1987) 5 Journal of Energy & Natural Resources Law; Yinka Omorogbe, *The oil and gas industry: Exploration and production contracts* (Malthouse Press 1997) 37 – 38; Adedolapo A. Akinrele n 102.

[109] Ibid.

[110] See Ministry of Petroleum Resources, '7 Big Wins' (Ministry of Petroleum Resources Nigeria 2016) <http://www.7bigwins.com/wp-content/uploads/2016/10/7-Big-Wins-Short-and-Medium-Term-Priorities-to-Grow-Nigerias-Oil-and-Gas-Industry-2015-2019.pdf> accessed 17 March 2018; Aaron Sayne and others, 'The Petroleum Industry Bill and The Future Of NNPC' (2012) <https://resourcegovernance.org/sites/default/files/documents/rwi_bp_nnpc_synth_rev21.pdf> accessed 4 March 2018.

[111] See Yinka Omorogbe (n 108) 37 – 38.

[112] Ibid.

[113] Ibid.

The petroleum industry of Nigeria can be argued to have been influenced by the movement of resource nationalism, similarly the ownership and control of its natural resource sector.[114] For instance, these movements are identified within the sections of the Petroleum Act of 1969 to the 1978 Land Use Act, and the state has always been proactive in the actual control and ownership of its natural resources.[115] OPEC influence can be identified here. In recent times, it has been challenging to define NNPC. As a formal organisation that is supposed to be vertically integrated petroleum company, it is neither a commercial entity nor a significant petroleum operator, as it relies on other companies to carry out the complex activities, that an oil operator should do.[116] Nevertheless, the proposed restructuring will effect the needed change in the NOC.

The Norwegian NOC - Equinor

Identified as the second youngest NOC in Europe, but also as a small NOC compared to some in Europe.[117] 1972 was the year Den Norske Stats Oljeselskap AS (Statoil) now Equinor was founded.[118] It was considered to be a state-owned company but most similar to an IOC, maybe because of its strong international commercial objectives.[119] Norway, through its legal framework, has been successful in the development of its oil and gas resources, and it has become a driver of Norwegian economic growth and national savings.[120] The legal basis and regulatory framework for petroleum activities in Norway today are conferred by the Petroleum Activities Act, 1996 and Petroleum Regulations, 1997.[121] The success of the Norwegian petroleum industry is evidenced by the billions of dollars in its Sovereign Wealth Fund.[122]

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[114] See Yinka Omorogbe (n 108).
[115] Ibid.
[116] Mark C. Thurber, Ifeyinwa M. Emelife and Patrick R.P. Heller, 'NNPC and Nigeria's Oil Patronage Ecosystem' in David G Victor, David R Hults and Mark Thurber (eds) (n 18) 701.
[117] Leslie E Grayson (n 1) 197 – 211.
[118] See Mark C. Thurber and Benedicte T. Istad, 'Norway's evolving Champion: Statoil and the Politics of State Enterprise' in David G Victor, David R Hults and Mark Thurber (eds) (n 18) 599.
[119] Ibid.
[120] See Tina Hunter, 'The Role Of Regulatory Frameworks And State Regulation In Optimising The Extraction Of Petroleum Resources: A Study Of Australia And Norway' (2014) 1 The Extractive Industries and Society; Chiara van Ingen, Requier Wait and Ewert Kleynhans, 'Fiscal Policy and Revenue Management In Resource-Rich African Countries: A Comparative Study Of Norway And Nigeria' (2014) 21 South African Journal of International Affairs <http://dx.doi.org/10.1080/10220461.2014.968200> accessed 11 September 2017.
[121] See Mark C. Thurber, David R. Hults and Patrick R.P. Heller, 'Exporting The "Norwegian Model": The Effect of Administrative Design On Oil Sector Performance' (2011) 39 Energy Policy 5367; Amir Sasson and Atle Blomgren, 'Knowledge Based Oil And Gas Industry' (2011) Research Report 3 BI Norwegian Business School.
[122] Ibid. See also, 'The Fund' (*Norges Bank*, 2020) <https://www.nbim.no> accessed 16 March 2020.

Today, Equinor is one of the most essential NOCs nationally, and internationally. One might argue that this fit was achieved mainly due to the fact that it was the principal operator in the vast oil and gas field of the country, whose oil and gas needs were not vast.[123] Consequently, as significant findings were made at Ekofisk and the primary gas discovery at Frigg in 1971, it became imperative that the Norwegian government set up a NOC to handle and control its resources. This view was echoed by the proposal the government made to the Norwegian Parliament (Storting).[124] Ownership and control of petroleum resources have resource nationalism as an underlying principle. Whichever the country, when the government reacts to establish ownership and control over a natural resource discovery, it means the same thing, irrespective of the geographical location of the country.

Following the proposal, in September 1972 Statoil (now Equinor) was established with the following objectives:

> To carry out, by itself or in participation or in cooperation with other companies, exploration and production, transportation, refining and marketing of petroleum and products derived therefrom, and other activities reasonably related thereto.[125]

The objective handed to Equinor translates the desire of the Norwegian government not only to own its resources but also control the resources and exploitation of these resources. The NOC was mandated to be involved in every facet of the Norwegian petroleum industry. Important to note, although Equinor was given the mandate, the government were aware of how powerful Equinor could become, and when its influence grew it might start controlling the government, citing the experience of Italy with Enrico Mattei and the struggle to get ENI controlled by the government and not the other way round. The legislators had to find a way to limit the powers of Equinor.[126]

[123] Leslie E Grayson (n 1) 197 – 211.
[124] Ibid.
[125] Leslie E Grayson (n 1) 197 – 211.
[126] Leslie E Grayson (n 1) 197 – 211.

Policies are the focus of any government in the context of natural resource development, and this includes political and fiscal policies.[127] According to Hunter, the needs of the state as an owner and regulator of the petroleum resources are what these policies should generally attempt to balance.[128] Thus, in 1971 the 'Ten Oil Commandments'[129] laid out the principles of the Norwegian petroleum policy.[130] Accordingly, these were a set of goals and strategies that guided Norway's involvement in the development of petroleum resources throughout the value chain of the petroleum industry.[131]

For these reasons, the Norwegian upstream petroleum industry has been labelled one of the best in the world, and its policy framework is remarkable.[132] Remarkably, Norway has controlled and managed its natural resources through its NOC that is engaged in commercial hydrocarbon operations; the government ministry that directs policies and a regulatory body that provides oversight and technical expertise.[133] Norway has demonstrated and shown the importance of dividing policy and regulatory roles among different government agencies which has led to the high achievement levels by its NOC.[134] While Nigeria, on the other hand, with a wealth of natural resources, are yet to have any positives to remark on, with regard to the benefits of the exploitation of their petroleum resources.[135]

3.3.2 Different Categories of National Oil Companies

When categorising, NOCs they usually vary in form or organisational structure: from differences in size, geographical endowment, experience, mandate, goals set

[127] Tina Hunter n 120.
[128] Ibid.
[129] Katarzyna Dośpial-Borysiak, 'Model Of State Management Of Petroleum Sector – Case Of Norway' (2017) 20 Interdisciplinary Political and Cultural Journal 97.
See also, '10 Commanding Achievements - Norwegian Petroleum Directorate' (*Npd.no*, 2018) <http://www.npd.no/en/publications/norwegian-continental-shelf/no2-2010/10-commanding-achievements/> accessed 14 December 2018.
[130] Tina Hunter, n 120.
[131] Ibid.
[132] See Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 116; T. Lind and G. A MacKay, *Norwegian Oil Policies* (Hurst 1980) 98-116; Per Heum and others n 100; Amir Sasson and Atle Blomgren n 116.
[133] Ibid.
[134] Ibid.
[135] Ibid.

by the NOC as a company and goals prioritised by their various governments.[136] Some are not independent of their governments while some are independent and are immune to political interference from the government.[137]

It is still arguable whether NOCs can completely rid itself of government interference or influence. Although NOCs vary from country to country, one can determine the form of each NOC by its characteristics.[138] These characteristics can include the NOCs created by a particular statutory instrument by the legislature; a separate legal personality; administration by a board usually appointed by a designated minister; having a responsibility to the government as its symbolic shareholder; employees are not civil servants; revenue-earning assets have usually been taken over from private ownership; usually financial reviews are done by private accounting and auditing; a NOC having autonomous private legal entity with full legal liability without privileges or immunities; having a separate judicial personality; an independent budget, and a designated autonomous body for management and decision-making.[139]

In terms of production and reserve size, NOCs are amongst the largest companies in the global petroleum industry.[140] IEA report grouped NOCs into two. The report separated national oil companies (NOCs) that concentrate on domestic production and the group of international NOCs (INOCs) that have both domestic and significant international operations.[141] This categorisation by the report was done based on their upstream activities.[142] Internationalised NOCs and domestic NOCs seem to be an easy categorisation, because one can quickly identify the objectives of these NOCs from their modus operandi. As NOCs are usually set up by the government, they might evolve into commercial profit-driven entities, proving that

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[136] See Patrick Heller, 'National Oil Company Database: Global Launch' (*National Resources Governance Institute*, 2019) <https://www.nationaloilcompanydata.org/api/publications/content/MvBx7qBCgtu0iILVzQGU2yhswUiFrmxxdwNuaT9C.pdf> accessed 25 June 2019. See also, Saud M. Al-Fattah, 'National oil companies: Business models, challenges, and emerging trends' (2013) 11(1) SSRN Electronic Journal 727–736.

[137] Andrew Cheon, Maureen Lackner, and Johannes Urpelainen, 'Instruments of political control: National oil companies, oil prices, and petroleum subsidies' (2014) 48(3) Comparative Political Studies 370–402.

[138] See Kameel I.F. Khan, National Oi Companies: Form, structure, accountability and Control in Khan (ed) (n 50) 186-187.

[139] Ibid.

[140] See 'The Oil And Gas Industry In Energy Transition' (*IEA - World Energy Outlook Special Report*, 2020) <https://www.iea.org/reports/the-oil-and-gas-industry-in-energy-transitions> accessed 5 March 2020.

[141] Ibid.

[142] Ibid.

non-interference from government will be a tough task, especially when the government has the higher share in the NOC like Equinor.[143]

Al-Fattah described Equinor as a perfect example of a NOC that is commercially driven,[144] but as stated above the controlling shares are held by the Norwegian government. Whether overtly or covertly, it can be argued that the Norwegian government exerts control over the corporation. The level of control is one that will be critically examined in this study. In the opposite direction lies Nigeria's NNPC who has no strong commercial presence, and is used by the Nigerian government as a rent collector from IOC activities within its territory and it needs constant approval from the government.[145]

The forms of NOCs that will be examined in this study will be the:

1. *"Façade/Mailbox"* a NOC confined to creating employment and representing the government in the oil and gas sector of the country in its relations with IOCs, also lacking any or limited capabilities and no actual E&P operations. E.g. NNPC in Nigeria; and
2. *"Privatized/competitive"* this NOC invests in efficiency and development of technology and technical expertise, enjoys full operational capacity, and is free to venture into business opportunities globally. e.g. Equinor in Norway.[146]

To characterise these NOCs by the above alone can be misleading to some extent. These different NOC forms can be said to embody the characteristics of one or more of the types stated. There seems to be an overlapping of the characteristics of each group, or the possibility of these forms of NOC metamorphosing into one or more of the stated forms. As the petroleum industry, especially the domestic

[143] Kameel I.F. Khan, National Oi Companies: Form, structure, accountability and Control in Khan (ed) (n 50) 185.
[144] Saud M. Al-Fattah n 131.; Robert Pirog, 'CRS Report for Congress, the role of national oil companies in the international oil market' (Congressional Research Service 2007) <https://pdfs.semanticscholar.org/e1c9/2675def6ea527370f9aaf1cbe7441556e7cd.pdf> accessed 13 March 2018.
[145] M Adebayo Ayoade, 'State Petroleum Ownership Model – Symbolism vs. Progress?' (2009) Vol. 7 Issue 3 OGEL
[146] See Bianca Sarbu (n 59) 34 – 35. See also, Ian Bremmer, 'The Return Of State Capitalism' (2008) 50 Survival 55; Hongyi Lai, Sarah O'Hara and Karolina Wysoczanska, 'Rationale Of Internationalization Of China's National Oil Companies: Seeking Natural Resources, Strategic Assets Or Sectoral Specialization?' (2014) 21 Asia Pacific Business Review 77; Bernard Mommer (n 89) 201-227.

one of a state matures, the objectives of the NOC could change, and this change could cause the formation of the NOC to change.

PFC Energy, an American international energy consulting company, now IHS Markit after the acquisition outlined the array of NOCs:

1. *"Statist bureaucracy"* this NOC mainly provides patronage for the ruling elites; despite that, it does not contribute extensively towards economic development. E.g. PDVSA in Venezuela, Sonatrach in Algeria, Sonangol in Angola, LNOC in Libya and GNPC in Ghana;
2. "*Development bureaucracy"* this type of NOC ensures revenues to the government, provides domestic subsidies for fuel and facilitates broader socio-economic development. E.g. CNPC, Sinopec – both in China, Saudi Aramco in Saudi Arabia, QP in Qatar, Rosneft in Russia, KMG in Kazakhstan, KPC in Kuwait, ADNOC in Abu Dhabi, PEMEX in Mexico, ONGC in India, NIOC in Iran and Pertamina in Indonesia;
3. *"Public entrepreneur"* this type of NOC supports the industrialization and growth efforts in the respective countries as they are granted autonomy in the pursuit of commercial goals both domestically and internationally. E.g. CNOOC in China, Petronas in Malaysia, Petrobras in Brazil, Ecopetrol in Colombia and PTT in Thailand.[147]

3.3.3 Objectives Of National Oil Companies

Grayson pointed out that the main objective for the setting up of NOCs was to reduce dependency on the IOCs.[148] If that was the case, why is it still a norm in a resource-rich country like Nigeria that though that they have a NOC, the country still relies heavily on the activities of IOCs in the exploitation of its natural resources. Correspondingly, Stevens maintained that protecting national hydrocarbon wealth, promoting economic development and advancing the political interests of the state overseas are the three ways that the accomplishment of the NOCs objectives are measured. More often than not these roles of the NOCs can

[147] Ibid. See also, 'NOC Competition In Domestic Basins Continues To Heighten As Sovereign Parents Address Domestic Energy Market Imbalances' (*IHS Markit*, 2018) <https://ihsmarkit.com/research-analysis/NOC-competition-domestic-basins-continues-heighten-sovereign-parents-address-domestic-energy-market-imbalances.html> accessed 16 March 2020.
[148] Leslie E Grayson (n 1) 8 – 13.

be affected by exogenous and endogenous factors. However, most often, the divergence between these factors is blurred.[149]

IOCs main objectives are usually to maximize and grow profits, while NOCs have many objectives. These objectives might include:

- to maximise and grow profits;
- to provide a major portion of the government budget, for example, Mexico, Venezuela, India, Nigeria, and Algeria;
- to subsidize domestic fuel, for example, Venezuela and Iran;
- to provide employment and social programmes employment, for example, Venezuela;
- to serve as an implementing government agent, for example, Venezuela;
- to provide "energy security" for the state, for example, Brazil;
- to pursue foreign policies targets of the government, for example, Russia; and
- to extend the lifetime of the petroleum resources, for example, Qatar and Saudi Arabia.[150]

Therefore, determining the objectives of the NOC becomes the most crucial question that governments face, as this will be connected to the overall petroleum policy and legal framework that will guide the NOCs in carrying out its objectives.[151] Olorunfemi observed that the NOCs evolved through two phases. In the first phase, NOCs were seen as instruments of government policy, that was used to establish the government sovereignty over its petroleum resources and help extend the benefits of the exploitation of its natural resources while the second stage evidenced the period when the NOCs changed structurally and were involved in integration and diversification into the global petroleum market.[152] Arguably, this evolution can be said to have affected the objectives of the NOCs. Accordingly, Commercial and non-commercial objectives are usually the main categories of NOC objectives. Although there are common objectives that most

[149] Paul Stevens, 'A Methodology For Assessing The Performance Of National Oil Companies' [2008] The World Bank.
[150] See Mark Thurber, 'NOCs And The Global Oil Market: Should We Worry?' (*Energy Stanford*, 2012) <https://energy.stanford.edu/sites/g/files/sbiybj9971/f/thurber_energy_seminar_nocs_06feb2012_final_0.pdf> accessed 20 February 2020.
[151] Oystein Noreng n 5.
[152] See Michael A. Olorunfemi n 47.

NOCs share, there still exist differences in the objectives set out by some governments for their NOCs. As the primary tool or in combination with other policy tools, NOCs are usually used to accomplish a broad range of objectives set out by the government.[153]

In assessing some governments and their NOCs Thurber came up with this table.
Table 2:

The Impact of State Goals on Performance

Performance in hydrocarbon functions	Non-hydrocarbon burden			
	High	Upper middle	Lower middle	Low
High			PDVSA (pre-strikes) Petrobras	Statoil
Upper middle			CNPC Petronas Saudi Aramco Sonangol	ADNOC
Lower middle	Gazprom PDVSA (post-strikes) Pemex	Sonatrach	ONGC	
Low	NIOC NNPC	KPC		

Large Non-Hydrocarbon Burden → Low Hydrocarbon Performance

Source: culled from Thurber.[154]

Attention must be paid to the positions of NNPC and Equinor (Statoil) in this table. As these two NOCs mirror two different outcomes on the table. Consequently, establishing that they are at polar ends of the table, one with a negative low outcome and the other with a definite high outcome.

African NOCs have usually promised more commercial activities. However, they have shown little or no evidence of achieving this, unlike the NOCs in the Middle East, who are even getting into the trading market as a means of expanding their commercial activities.[155] For most NOCs the roles and responsibilities are usually set by their governments. These roles intertwine with the set objectives, bearing

153 See Silvana Tordo, Brandon S Tracy and Noora Arfaa n 19.
154 See Mark Thurber n 150.
155 Peter Ramsay, 'ADNOC Joins The Trading Party' (*Petroleum-economist.com*, 2019) <https://www.petroleum-economist.com/articles/corporate/finance/2019/adnoc-joins-the-trading-party> accessed 28 March 2019.

in mind that these objectives set by the government can afford an observer an understanding of what the government sets out to achieve with the NOC. For this study, these objectives set out for a NOC will be categorised under commercial and non-commercial objectives.

3.3.3.1 Commercial Objectives

During the period when petroleum-producing countries decided to establish NOCs, the primary thought and expectation were that these NOCs would one day emulate and offset, or even replace the commercial roles played by the IOCs.[156] Although it has been challenging to access the data that shows the level of NOCs efficiency, although some theoretical, analytical work, anecdotal evidence and empirical works of Hartley and Medlock, Victor, and Mcpherson, suggest that the NOCs have not done well commercially or at least in comparison to the IOCs.[157]

Be that as it may, it will be wrong to generalize, because some NOCs, to some extent have done well in various commercial endeavours. In light of this study, the second NOC to be considered in terms of upstream commercial activity has little or no commercial activity. The research seeks to find an answer to the poor performance of NNPC and contends that pursuing a more commercial role would lead to a better performance from the NOC. When it comes to commercial roles, and the ability of the NOC to be an operator of large-scale upstream fields, Equinor of Norway is a top example. At the same time, the NNPC example of a commercial role is one of a non-operating, primary equity holder in a joint venture group.[158]

Correspondingly, Mcpherson in his work identified some reforms introduced to improve NOC commercial performance which include: upstream capacity building and corporatization progress; bench-marking against private sector performance; introduction of competition; divestiture of non-core functions; joint venturing with

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[156] Peter Hartley and Kenneth B. Medlock n 77; Charles Mcpherson and World Bank Group (n 33) and Charles Mcpherson, ‘National Oil Companies: Ensuring Benefits and Avoiding Systematic Risks’ in Andreas Goldthau (ed) (n 96) 147-148.
[157] Ibid.
[158] Patrick R.P. Heller, 'Doubling Down: National Oil Companies As Instruments Of Risk And Reward' (*Econstor.eu*, 2017) <https://www.econstor.eu/bitstream/10419/163051/1/884543331.pdf> accessed 2 January 2019.

the IOCs; partial privatization through listing on stock exchanges; and sector-wide reform and restructuring.[159] All these are great ideas, but one must realise that for all these to be achieved, the government has to support these NOC goals as the government dictates these objectives of the NOCs.

Therefore, the opportunity to assist the government in developing a particular understanding of the petroleum industry so that it is able to control the operations of the IOCs is another crucial objective of a NOC.[160] When a NOCs is to become a commercial player in the international petroleum industry, funding becomes the main issue.[161] The petroleum industry is a very capital-intensive industry; as a result, NOCs select the options that best suit them when participating in the industry, by equity participation and NOC borrowing which are ways in which the NOC participates in the petroleum industry.[162] NOCs usually seek to reduce their exposure to the petroleum industry, hence the choice of opting for joint ventures with IOCs bearing the costs and funding the projects.[163]

In some countries, their petroleum laws provide that the NOCs take on the responsibilities of the operator in the oil fields. In contrast, some laws mandate it to become an operator, while others provide a vaguely phrased mandate, thus leading to ambiguity in the definition of the roles of the NOCs.[164] In today's international petroleum industry, there seems to be a call for more commercial NOCs, owing to the low oil price, and other industry elements. The argument towards a commercial NOCs was captured aptly by EY Global oil and gas Leader Adi Karev:

> The case for NOC transformation is clear. The coming years will be defining for the NOCs as they progress to become "commercial NOCs," fully embracing the need to embark on the capital transformation.[165]

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[159] Charles Mcpherson in Andreas Goldthau (n 96) 147.
[160] See Leslie E Grayson (n 1) 8 – 13.
[161] Ibid (n 1) 148.
[162] Ibid., Leslie Grayson (n 1) 148.
[163] Charles Mcpherson in Andreas Goldthau (n. 96) 148.
[164] Valérie Marcel, 'The Cost Of An Emerging National Oil Company' [2016] Chatham House - The Royal Institute of International Affairs.
[165] See Adi Karev, 'Why National Oil Companies Need To Transform' (*EY*, 2018) <https://www.ey.com/en_gl/oil-gas/why-national-oil-companies-need-to-transform> accessed 13 December 2019.

He went on state that there is need for proper management of the revenues from petroleum resources at this period of downturn in the international petroleum industry, especially concerning developing petroleum-rich countries with NOCs, that are heavily dependent on petroleum revenues.[166] The consequences could affect government budgets, sovereign investment, economic development incentives, and critically on subsidy support and social welfare programmes.[167] Expressively, these petroleum-rich states benchmark most of the government expenditure on the price of oil. It is therefore reliant on global petroleum market forces for its internal spending. For example, the Nigerian government uses the price of oil as a benchmark for the national budget.[168] This benchmarking on the oil price can be observed in Saudi Arabia.[169]

3.3.3.2 Non-Commercial Objectives

NOCs role in the future of the global petroleum industry, especially the non-commercial objectives, is one that is not so clear. Analysts' opinions of this have differed, from the view that NOCs are inefficient and corrupt to the other view that the NOC is in a transformation stage and will become a competitive power to be reckoned with.[170] Accordingly, some of these non-commercial objectives could include wealth redistribution, industrialisation, economic development and energy security.[171] In balancing the roles of a NOC, these objectives could also help one see the vital role NOCs play in a state and global petroleum industry. It, therefore, goes without saying that the ability of the NOC to produce at a technically efficient

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[166] Ibid.
[167] Ibid.
[168] See '2020 Budget: FG Maintains Benchmark In Spite Increase In Oil Price' (*Punch Newspapers*, 2020) <https://punchng.com/2020-budget-fg-maintains-benchmark-in-spite-increase-in-oil-price/> accessed 16 March 2020.
[169] See Abeer Abu Omar, 'Saudi Arabia isn't Counting On An Oil Price Rise In 2020 Budget' (*World Oil*, 2020) <https://www.worldoil.com/news/2019/12/10/saudi-arabia-isn-t-counting-on-an-oil-price-rise-in-2020-budget> accessed 16 March 2020.
[170] See, Andrew C. Inkpen and Michael H Moffett (n 32) 16; Andrew Cheon, Maureen Lackner, and Johannes Urpelainen (n 68).
[171] The Changing Role of National Oil Companies in International Energy Markets' (n 17). See also Miranda L. Wainberg, Dmitry Volkov and Michelle M. Foss, 'Commercial Frameworks For National Oil Companies' [2007] Centre for Energy Economics - Working paper <http://www.usaee.org/usaee2007/submissions/OnlineProceedings/CEE_National_Oil_Company_USAEE_PDF%203.pdf> accessed 8 November 2019.

level and also the ability to maximise the value obtainable from their oil resources are interfered with by the firms' non-commercial objectives.[172]

The way events unfolded in the 1970s, and the importance that was attributed to the control of petroleum resources, makes one wonder why these strategies that have helped individual nations in achieving excellence in the exploitation of its petroleum resources have not been replicated in resource-rich developing countries.[173] The domestic objectives are set by the governments, these are usually susceptible to change over time, and the range of these objectives could sometimes be contradictory.[174] The objectives set out by the governments of Norway and Nigeria will be critically examined in Chapter 6, and also the fulfilment of the set objectives.

A NOC that is competent and has a good governance process perhaps will be better than allowing the petroleum industry to be controlled by IOCs. However, many negative remarks has been made against the NOCs, from their inefficiencies to corruption.[175] In the same light, some NOCs have been applauded in the way they go about their business, whether within their borders or outside.[176]

It is often anticipated that in a petroleum resource-rich developing state with a NOC, that the goals and objectives would lead to better benefits for the people of the state. It has not been so, because some petroleum resource-rich state frontier countries, still have citizens living in poverty.[177] Many debates on the development of petroleum, especially in Africa is always linked with corruption, poor governance, human rights abuse and violent conflict.[178] So, petroleum nationalisation has not lived up to expectations, and the role of the NOC in this

[172] Ibid.
[173] See Kameel I.F. Khan, National Oi Companies: Form, structure, accountability and Control in Khan (ed) (n 50) 187-188.
[174] Ibid.
[175] See Valérie Marcel and John V Mitchell (n 3) 2 – 3.
[176] See Paul Stevens (n 43).
[177] See Cyril I. Obi, 'Oil and Development in Africa: Some Lessons from the Oil Factor in Nigeria for the Sudan' (*Research Gate*, 2007) <https://www.researchgate.net/profile/Cyril_Obi/publication/265568602_Oil_AnD_DevelOpment_in_AfricA_SOme_leSSOnS_frOm_the_Oil_fActOr_in_nigeriA_fOr_the_SuDAn/links/560018aa08ae07629e52842c.pdf> accessed 2 March 2018
[178] Ibid.

has been conflicting, many governments using the NOCs as a de facto treasury.[179] For example, nearly all NOCs exist to control and manage the petroleum-rich country's resources, on the other hand, NOCs from petroleum resource-poor countries like India and China exist to manage the energy security needs of their particular countries, this then demonstrates that the roles assigned to these NOCs will differ. The NOCs structure or form will be different.[180]

Therefore, for there to be clarity of goals and objectives, it is essential to have a strong separation of functions and responsibilities as epitomised in the Norwegian petroleum industry where the 'policy-making', 'strategy-making', 'operational decision-making', and monitoring-regulation are distinguished.[181] Of course some NOCs have been known to be well run and profitable. For example, Equinor of Norway is considered to be one of the best NOCs in the Global oil and gas industry, also other NOCs like Petronas and Petrobras have received high commendation on the way they are run.[182]

Although the roles and responsibilities of the NOCs are non-exhaustive Mcpherson advanced a list of NOC roles and responsibilities as follows; commercial participant and revenue generator, sector regulator and overseer,[183] a promoter of national capacity,[184] development agency,[185] fiscal and financial agent,[186] an instrument of foreign policy.[187] Generally, NOCs are assigned the role industry regulator. It is expected that the NOC will be familiar with the petroleum industry, have a superior technical capacity, and preferential access to information.[188] Nevertheless, it is

[179] Oil revenues represented about 60% of the GDP and more than 90% of hard currency earnings in Nigeria. See Andrew C. Inkpen and Michael H Moffett (n 32) 15.
[180] See Andrew C. Inkpen and Michael H Moffett (n 32) 55.
[181] Bianca Sarbu (n 58) 24 – 25.
[182] See, Andrew C. Inkpen and Michael H Moffett (n 32) 15.
[183] Charles Mcpherson in Andreas Goldthau (n 96) 148 – 149.
[184] Charles Mcpherson in Andreas Goldthau (n 96) 149.
[185] As a development agent, that means the NOC is expected to engage in non-commercial activities, like social infrastructure obligations – schools, hospitals, roads, and bridges. This expectation on the NOC will be higher especially if the NOCs commercial activities do not involve the actual exploration and production activities, but the act more like rent collector from the activities of the IOCs in its territory.
Charles Mcpherson in Andreas Goldthau (n 96) 150.
[186] As stated earlier, NOCs that do not get involved in the exploration and production in its oil and gas sector, are usually reduced to being a tax collector, or rather having the main responsibility of assessment and collection of royalties. Charles Mcpherson in Andreas Goldthau (n 96) 150.
[187] See Charles Mcpherson in Andreas Goldthau (n 96) 151. See also Hongyi Lai, Sarah O'Hara and Karolina Wysoczanska n 141.; Seyed Kamran Bagheri and Alberto Di Minin n 4; and Alan H Gelb, *Oil Windfalls: Blessing Or Curse* (Oxford University Press 1988) 3.
[188] Charles Mcpherson in Andreas Goldthau (n 96) 148 – 149.

arguable that some NOCs, especially in a petroleum-rich state, do not have the above qualities. However, they are considered to be the regulators of the petroleum industry in that state. As a regulator, the responsibilities will include: making sure of compliance with sector legal, contractual, and regulatory obligations; critical policy functions, input to the drafting of sector legislation and regulations; collection and maintenance of industry technical and contractual data; oversight of procurement; and cost or "value for money" audits. Usually, conflicts will arise in carrying out these responsibilities, and especially when the NOC is involved in commercial activities.

As the NOC builds, it owns the internal capacity; in turn, it is expected to promote and develop a broad national petroleum sector capacity.[189] Usually, the first task should be building its technical capacity. The example of productive capacity building using the private sector as Shell Petroleum Development Corporation (SPDC) in Nigeria which is almost staffed on every level by Nigerians, is worth applauding, but why shouldn't such examples of success be associated with the NNPC, as development is expected to be on a national level.[190]

Petroleum importing countries like China, India and South Korea usually persuade their NOCs to acquire petroleum assets abroad in a bid to guarantee steady petroleum supply or import into its parent state.[191] Presumably, this is a rational policy that ensures energy security for petroleum importing countries. In like manner, this study research seeks to understand the different views of the NOCs as commercial players. Over the years, there have been arguments for and against this. This study believes that the commercial role of a NOC over time can be the success factor for any petroleum-rich developing state.

3.4 Conclusion

The initial establishment of NOCs by western European countries after the oil embargo of 1973, was for the governments through their NOCs to gain knowledge

[189] Charles Mcpherson in Andreas Goldthau (n 96) 149.
[190] Ibid.
[191] See Seyed Kamran Bagheri and Alberto Di Minin n 4. See also Alan H Gelb (n 182) 3.

about the petroleum industry. Norway and Nigeria exemplify two extremes of a public policy choice when managing their natural resources: to consume for the benefit of the present generation or invest or save for the benefit of future generations.[192]

Following the discussions in this chapter, a pattern emerges whenever a country discovers abundant petroleum resources. The need for the government to control the exploitation of these resources becomes paramount. This usually follows the establishment of a separate government entity that through it, the government will exert control. Correspondingly, these governments establish their national oil companies. This was observed with the Norwegian and British government. Professor Kemp in his work on the North Sea oil and gas industry observed that the British government needed to control and influence the activities of BNOC, albeit covertly, so as not to go against the international obligations, particularly under the Treaty of Rome.[193]

The reasons for establishing a NOC might vary from state to state, but the main aim of the state is to have control over the petroleum resources. Whether the state is an exporting or importing state, the drive to have a separate government entity that secures these resources or ensures the proper exploitation of the petroleum resources is one that has been evidenced by the history of the global petroleum industry. Thus, the importance of a NOC to date is immense. As of 2017, NOCs control assets valued at over three trillion dollars, thus making them considerable players in public financial management, globally and within their states as they are critical players in the global petroleum industry, and also play huge roles in their home-country economies.[194]

These analyses show that governments always have a strong role to play in the exploitation of natural resources. Although some might relinquish their role to the private sector later on, for the formative years of the petroleum industry in most countries, the government has a dominant role to play. Importantly, NOC as the

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192 Andrew Bauer and Juan Carlos Quiroz in Andreas Goldthau (n 96) 256. See also, Per Heum and others n 100.
193 See Alexander G Kemp (n 89) 341 – 343.
194 See The National Oil Company Database: Report (*National Oil Company Database*, 2019) <https://www.nationaloilcompanydata.org/api/publications/content/NFInSnhdYNC4ntCohaYqok1u2jHAG4vvLXK1jwrL.pdf> accessed 25 June 2019.

tool for achieving the goals of the state towards the beneficial exploitation of its resources is indispensable. NOCs activities influence domestic development through its impact on macroeconomic management, investment and overall governance and stability, and in like manner how well a NOC performs not only affect its domestic economy, it also has significant ramifications on international energy supply and security.[195]

The theme of the argument for maintaining a NOC is drawn from the analysis of this chapter. Historical support was received from the works analysed. The subsequent chapters will continue in like manner, but the narrower analysis will be carried out on the Norwegian and Nigerian upstream industry. The analysis in this chapter goes to show the need for an entity that can be used to exert control over the petroleum resources. For a developing country, the importance of a NOC as a tool of the government to exert its authority over its resources is vital.

Mommer remarked that today, NOCs can be transformed into new liberal licensing, and contracting agencies, which was contrary to their duties in the past where they were used as rent collecting agents of the state or 'landlord state' as Mommer calls them.[196] However, nationalisation expanded the role of NOCs tremendously.[197] Although today some of these NOCs in petroleum-rich states, especially the developing ones, still limit their NOCs to petroleum-rent collectors.

It is pertinent to state that historical experience in Norway and Nigeria reflect the policy paradigms, which are generally tailored to the commitment to Western liberal ideas and constitution, arguably Norway in more ways than Nigeria.[198] Critical analysis of the paths these governments chose can be said to be the government's generalized perspectives and corresponding strategy rules as a government reaction to the new problem.[199]

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[195] Charles Mcpherson in Andreas Goldthau (n 96) 146. See Leonardo Maugeri, 'Oil: The Next Revolution' [2012] The Geopolitics of Energy Project <http://indianstrategicknowledgeonline.com/web/Oil-%20The%20Next%20Revolution.pdf> accessed 8 November 2018.
[196] Bernard Mommer (n 89) 183.
[197] Ibid.
[198] Svein S Andersen (n 66) 14.
[199] Ibid.

One might say that Norway pursued Western liberal ideas, but the form of control exerted by its government on the petroleum industry did not depict a liberal policy path. More attention should be paid to the petroleum industry policies and legal frameworks, especially for a developing petroleum-rich country because appropriate policies will help the government optimize the benefits of these resources.[200] The impact of the petroleum policies and legal frameworks of Norway and Nigeria will be examined in subsequent chapters.

Finally, for all the commentary that the NOC model is not the best option for a petroleum-rich state, this work seeks to argue against that. The history of the global petroleum industry proves otherwise. The argument that the days of NOCs as tools of government control of natural resources are numbered is one of the debates. The thesis argues that NOCs are still as relevant as they were years ago, and they have the potential to be the critical government entity that could assist any state primarily a petroleum-rich developing one to reap the benefits of its petroleum resources. Chapters 4 and 5 will critically analyse the theories of resource nationalism and resource curse that impact the management of petroleum resources by a NOC, thereby linking the theoretical concepts of this study with the arguments of maintaining a NOC.

[200] Alexander G. Kemp, 'Petroleum Policy Issues In Developing Countries' (1992) 20 Energy Policy.

CHAPTER FOUR - THE LINK BETWEEN RESOURCE NATIONALISM AND NOCS

4.1 Introduction

Natural resources should be used for the good of the whole nation, not for a select group as these resources are the wealth of the nation.[1] Building on this, a nation cannot boast of being rich with petroleum resources and yet have the majority of its population living in poverty. It is expected that when a state is rich in petroleum resources, this will translate to a good standard of living for the citizens of that state. Sadly, as has been identified by numerous studies, and investigations, in reality, it is not usually the case.[2]

A substantial petroleum resource strategy is what that should be demanded of every government from the people of the state, as these natural resources are for the good of the people. Hence they need to be observant of the way the petroleum revenues are being used by the government.[3] The government should be held accountable for the outcomes of natural resource exploitation as these resources are usually, entrusted into the hands of the government by the people, who elected the government officials into office. Bear in mind that this viewpoint comes into play if the state is a democratic one. These days the relationship between the extraction of petroleum resources and economic development is far from straightforward because some of these petroleum-rich developing states are marked by economic and political dysfunction. Where Norway is usually cited as a prominent exception, Nigeria, on the other hand, is a notable example.[4]

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[1] Charles Mcpherson and World Bank Group, 'National oil companies evolution, issues, Outlook national oil companies workshop current roles and future prospects' (World Bank Washington D.C. 2003).
[2] See Marcus Power, 'Angola 2025: The Future Of The “World's Richest Poor Country” As Seen Through A Chinese Rear-View Mirror' (2011) 44 Antipode 993.
[3] Robert F. Buchanan and Syed Tariq Anwar, 'Resource Nationalism And The Changing Business Model For Global Oil' (2009) 10 The Journal of World Investment & Trade 241.
[4] See Natalie Koch and Tom Perreault, 'Resource Nationalism' [2018] Progress in Human Geography 1-21 and Nna Emeka J. Wokoro, 'Beyond Petroleum Production To Community Development: International Oil Companies As Proxy Governments' (2009) 5 Texas Journal of Oil, Gas, and Energy Law 323.

The core ideology behind resource nationalism is that the natural resources should be used for the good of the nation as a whole, rather than for private or a privileged group in the nation.[5] Thus, many commentators hold the view that resource nationalism should not be a medium for enrichment for government officials and elite groups. Instead, it should be used for the national development and the benefit of all the citizens of the nation.[6] Pryke contends that regardless of the arguments against resource nationalism, the phenomenon should be situated within the arc of national development.[7] Rosales claimed that the notion of national development played an important role in driving resource nationalism.[8] Therefore the potential of "positive" resource nationalism deserves to be recognised in the context of wealth distribution and national development.[9]

This chapter attempts to establish the resource nationalism phenomenon in the global petroleum industry, and the continuous role NOCs play in achieving the economic development of a state through their petroleum resources. This chapter starts by conceptualising and defining resource nationalism and attempts to critically analyse the view of resource nationalism and offers a different dimension on the perspective of resource nationalism. The analysis will be done within the context of a developed and developing state while bringing concepts of ownership

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[5] David R. Mares, 'Oil Policy Reform In Resource Nationalist States: Lessons For Mexico' (*The Future of Oil in Mexico James A. Baker III Institute for Public Policy*, 2011) <https://scholarship.rice.edu/bitstream/handle/1911/91374/EF-pub-MaresLessons-04292011.pdf?sequence=1> accessed 8 August 2018. See also Natalie Koch and Tom Perreault (n 4).

[6] See Rasmus Hundsbæk Pedersen and others, 'Mining-Sector Dynamics In An Era Of Resurgent Resource Nationalism: Changing Relations Between Large-Scale Mining And Artisanal And Small-Scale Mining In Tanzania' (2019) 62 Resources Policy 339; Orhon Myadar and Sara Jackson, 'Contradictions Of Populism And Resource Extraction: Examining The Intersection Of Resource Nationalism And Accumulation By Dispossession In Mongolia' (2019) 109 Annals of the American Association of Geographers 361; Ekim Arbatli, 'Resource Nationalism Revisited: A New Conceptualization In Light Of Changing Actors And Strategies In The Oil Industry' (2018) 40 Energy Research & Social Science 2214; Thabit Jacob and Rasmus Hundsbæk Pedersen, 'New Resource Nationalism? Continuity And Change In Tanzania'S Extractive Industries' (2018) 5 The Extractive Industries and Society 287 and Guillaume Fontaine, José Luis Fuentes and Iván Narváez, 'Policy Mixes Against Oil Dependence: Resource Nationalism, Layering And Contradictions In Ecuador's Energy Transition' (2019) 47 Energy Research & Social Science 56.

[7] Sam Pryke, 'Explaining Resource Nationalism' (2017) 8 Global Policy 474. Further, Tugendhat and Hamilton in assessing the importance of petroleum to development expressed:

> Developments have taken much of the bloom of youth away from oil just as they have taken much of glamour from the oil industry. During the coming years, both will be subject to increasing pressures and restrictions as the questions of internationalism versus nationalism grow more intense.

See Christopher Tugendhat and Adrian Hamilton, *Oil The Biggest Business* (Eyre Methuen Ltd 1975) 382.

[8] Antulio Rosales, 'Contentious Nationalization And The Embrace Of The Developmental Ideals: Resource Nationalism In The 1970S In Ecuador' (2017) 4 The Extractive Industries and Society 102.

[9] Misheelt Ganbold and Saleem H. Ali, 'The Peril And Promise Of Resource Nationalism: A Case Analysis Of Mongolia's Mining Development' (2017) 53 Resources Policy 1.

and control into the analysis. The increasing influence and essential role of NOCs in this, and the change in ways which resource nationalism are expressed today, from broad nationalisation to regulatory control.[10] Some 1970s works on resource nationalism were centred on the cyclical price of petroleum and resource nationalism,[11] in contrast, some recent works focused on historical elements,[12] institutions,[13] and the politics of identity and social justice.[14]

This chapter seeks to examine the debates about resource nationalism by establishing the phenomenon in a resource-rich developing state like Nigeria and a resource-rich developed state like Norway. The in-depth analysis of these countries experience in the ownership and control of their resources through regulatory control will be analysed in the following chapter. Reflecting on resource nationalism from a historical perspective will assist the study in understanding what initially prompted the select countries to adopt policies and legislations of resource nationalism. Nevertheless, the capability of some countries to convert resource nationalism to economic development in its petroleum industry continues to be a doubt, especially in developing countries.[15]

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[10] Petroleum resources are a well-recognised major source of rent and powerful diplomatic weapon, as a consequence there is no surprise that resource-rich governments will keep adopting new strategies in exercising its control over this important tool in its possession. See Ekim Arbatli n 6 and Thabit Jacob and Rasmus Hundsbæk Pedersen n 6.

[11] Vlado Vivoda, 'Resource Nationalism, Bargaining And International Oil Companies: Challenges And Change In The New Millennium' (2009) 14 New Political Economy 517.

[12] Ian Bremmer and Robert Johnston, 'The Rise And Fall Of Resource Nationalism' (2009) 51 Survival. Also, Vugar Gojayev, 'Resource Nationalism Trends In Azerbaijan, 2004 - 2009' [2010] RUSSCASP and Stefan Andreasson, 'Varieties Of Resource Nationalism In Sub-Saharan Africa's Energy And Minerals Markets' (2015) 2 The Extractive Industries and Society 310.

[13] Jeffrey D. Wilson, 'Understanding resource nationalism: Economic dynamics and political institutions' (2015) 21(4) Contemporary Politics 399.

[14] Siri Lange and Abel Kinyondo, 'Resource Nationalism And Local Content In Tanzania: Experiences From Mining And Consequences For The Petroleum Sector' (2016) 3 The Extractive Industries and Society 1095.

[15] Theoretically, resource nationalism that occurred in the middle of 2000s was expected to provide new opportunities for a more advantageous use of petroleum resources for development. See Paul A. Haslam and Pablo Heidrich, From Neoliberalism to Resource Nationalism in Paul Alexander Haslam and Pablo Heidrich, *The Political Economy Of Natural Resources And Development* (Routledge Taylor & Francis Group 2016) 4-5.

4.2 Reviewing the meaning of Resource Nationalism in the Context of the Petroleum Sector

Joffe et al. claimed that the first documented action of resource nationalism was in 1938, in Mexico, soon followed by Venezuela, and after that the wave moved on to the Middle East with Iran's nationalisation of its properties in an attempt to wrestle control from British Petroleum.[16] Morse contended that before Mexico's oil nationalisation, the first significant incident of petroleum nationalisation was the Bolshevik Revolution of 1917[17] in Russia.[18]

As the global petroleum industry continued to grow, so did the dissatisfaction with the terms of petroleum concessions following World War II concurrently with the globally rising demand of petroleum, and the emphasis on national sovereignty over natural resources by a United Nations declaration set the conditions for a new era in the global petroleum industry.[19] The creation of OPEC in 1960 evidenced this new petroleum development era[20] and the establishment of NOCs throughout the 1960s and 1970s were vital developments which changed the balance of power between IOCs and governments in favour of the latter in the global petroleum industry.[21]

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[16] George Joffe and others, 'Expropriation Of Oil And Gas Investments: Historical, Legal And Economic Perspectives In A New Age Of Resource Nationalism' (2009) 2 The Journal of World Energy Law & Business 3. See also Bernard Mommer, *Global Oil And The Nation State* (Oxford University Press 2002) 65-84, and Noel Maurer, 'The Empire Struck Back: Sanctions And Compensation In The Mexican Oil Expropriation Of 1938' (2011) 71 The Journal of Economic History 590; Antulio Rosales n 8.

[17] See Simon Cosgrove, 'Russia In Revolution. An Empire In Crisis, 1890–1928; The Russian Revolution, 1905–1921' (2019) 71 Europe-Asia Studies 513; 'Russian Revolution' (*History.com*, 2009) <https://www.history.com/topics/russia/russian-revolution> accessed 25 June 2019 and 'Russian Revolution | Definition, Causes, Summary, History, & Facts' (*Encyclopedia Britannica*, 2019) <https://www.britannica.com/event/Russian-Revolution-of-1917> accessed 25 June 2019.

[18] Edward L. Morse, 'A New Political Economy Of Oil?' (1999) 53 Journal of International Affairs.

[19] Ekim Arbatli n 6. See also Paul Domjam and Matt Stone, 'A Comparative Study of Resource Nationalism in Russia and Kazakhstan 2004 – 2008' (2010) Europe-Asia Studies 35; Paul Stevens, 'National oil companies and international oil companies in the middle east: Under the shadow of government and the resource nationalism cycle' (2008) 1(1) The Journal of World Energy Law & Business 5; Sam Pryke n 7.

[20] See Bernard Mommer, 'The Political Role Of National Oil Companies In Exporting Countries: The Venezuelan Case' [1994] Oxford Institute for Energy Studies and James Bamberg, *British Petroleum And The Political Economy Of International Oil* (Cambridge University Press 2000) 143 – 151.

[21] See Giacomo Luciani, 'Global Oil Supplies: The Impact Of Resource Nationalism And Political Instability' [2011] SSRN Electronic Journal. See also Bernard Mommer, 'The Governance Of International Oil: The Changing Rules Of The Game' [2000] Oxford Institute for Energy Studies; Valérie Marcel and John V Mitchell, *Oil Titans: National Oil Companies in the Middle East* (Chatham House 2006) 34-36; Daniel Hellinger, Resource Nationalism and the Bolivarian Revolution in Venezuela in Paul Alexander Haslam and Pablo Heidrich (n 15) 204 – 217.

The norm in the global petroleum industry then was state ownership and establishment of NOCs. The relationship between the host governments and IOCs was confrontational and antagonistic.[22] For instance, events from the nationalisation of the Anglo-Iranian oil company in 1951 which brought about the refusal of the company and the government of Britain of an equal distribution of tax revenue between the Iranian government and the British government. The coming of power of Colonel Qaddafi in 1969 and his stance on IOCs operating in Libya, the collapse of the Soviet Union and the resource nationalism that occurred in South American countries like Venezuela and Bolivia are further examples.[23]

The campaign against IOCs by petroleum exporting states was led by Libya.[24] Colonel Qaddafi seized power from King Idris in 1969, and Bamberg commented that this event transformed the political landscape of the global petroleum industry.[25] Resultantly, these events gave rise to resource nationalism in the global petroleum industry.[26] The IOCs started losing their remaining petroleum concessions in OPEC countries; for example, Saudi Arabia took a 60% share in Aramco in June 1974 and settled the terms of full nationalisation in 1976.[27] Iraq nationalised its remaining private interests which included BP's 23¾% in the Basra Petroleum Company in December 1975.[28] Nigeria raised its participation to 55% in 1974; and Libya depending on the circumstances of the IOCs which had stood out against the nationalisation decree of September 1973, took either 51% or 100%.[29]

However, Arbatli observed that from the mid-1980s there was an evident decline in resource nationalism, and thus the relationship between the host government changed from confrontational to mostly cooperative.[30] This lasted for the next two decades. Taking into consideration these developments, petroleum industry

[22] See Ekim Arbatli n 6; Paul Stevens n 19; James D. Fry and ElFadil Ibrahim, 'Reassessing Venezuela's Organic Hydrocarbon Law: A Balance Between Sovereignty And Efficiency?' (2013) 6 The Journal of World Energy Law & Business 234; Kameel I.F. Khan, National Oil Companies: Form, structure, accountability and Control in Khan (ed), *Petroleum Resources And Development* (Belhaven 1988) 185-186.
[23] See Giacomo Luciani n 21.
[24] See James Bamberg (n 20) 450 - 466.
[25] Ibid.
[26] See James Bamberg (n 20) 485 – 489.
[27] Ibid.
[28] Ibid.
[29] Ibid.
[30] See Ekim Arbatli n 6.

expropriations were brought to a halt between 1986 and 2005, as developing countries were believed to be sufficiently institutionalised to exercise regulatory control over their petroleum resources, rather than resorting to costly and risky methods of expropriation.[31] Although this was the general behaviour in some petroleum-rich countries things were different, for instance in Venezuela.[32]

The change in energy policies, disputably not the only reason, was attributed to the rise of production from non-OPEC countries, and the move away from the ideology of state control as the best petroleum policy towards a more market or liberal form of managing the petroleum production.[33] Further, as per the Washington consensus, the need to attract foreign direct investment (FDI) into a state’s petroleum sector became the industry convention.[34] Moreover, as a package of economic reforms related to the neoliberal agenda, privatisation became the main principle of the Washington Consensus[35] and in the United Kingdom.[36]

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[31] Ibid.

[32] See Clifford Krauss, 'Conocophillips Wins $2 Billion Ruling Over Venezuelan Seizure' (*The New York Times*, 2020) <https://www.nytimes.com/2018/04/25/business/energy-environment/conocophillips-venezuela-ruling.html> accessed 17 March 2020. See also, 'U.S. Glass Firm Sues Venezuela To Collect $500 Million Expropriation Award' (*Reuters*, 2020) <https://www.reuters.com/article/us-owens-venezuela-lawsuit/u-s-glass-firm-sues-venezuela-to-collect-500-million-expropriation-award-idUSKCN1Q1061> accessed 17 March 2020.

[33] See Ekim Arbatli n 6. See also Roland Dannreuther, Geopolitics and International Relations of Resources in Wojciech Ostrowski and Roland Dannreuther (eds), *Global Resources Conflict And Cooperation* (Palgrave Macmillan 2013) 86-88.

[34] Ibid.

[35] The ‘Washington Consensus’ albeit coined by John Williamson refers to the development strategies that focus on privatisation, liberalisation and price stability. Often referred to as ‘neoliberal’ policies because of the emphasis on liberalisation and because of the 19th Century liberalism, which stressed the need for minimal state role. These strategies were believed to be the most likely way to promote development in the world’s poorest countries. These policies were recommended by Washington-based International Financial Institutions (IFIs), and the US Treasury in 1989. Albeit, it was aimed at the Latin American poor countries, the oversimplified rendition of these policy recommendation was carried out especially during the period of the 1980s and early 1990s. See Joseph E Stiglitz, ‘Is there a Post-Washington Consensus Consensus?’ in Narcís Serra and Joseph E Stiglitz (eds), *The Washington Consensus Reconsidered: Towards A New Global Governance* (Oxford University Press 2008) 41.
See also John Williamson, ‘A Short History of the Washington Consensus’ in Narcís Serra and Joseph E Stiglitz (eds), *The Washington Consensus Reconsidered: Towards A New Global Governance* (Oxford University Press 2008) 14-27; John Willaimson, 'The Strange History Of The Washington Consensus' (2004) 27 Journal of Post Keynesian Economics 195; Charles Gore, 'The Rise And Fall Of The Washington Consensus As A Paradigm For Developing Countries' (2000) 28 World Development 789; John Williamson, 'Democracy And The “Washington Consensus”' (1993) 21 World Development 1329; Moisés Naím, 'Washington Consensus Or Washington Confusion?' [2000] Foreign Policy 86 and John Williamson, 'What Should The World Bank Think About The Washington Consensus?' (2000) 15 The World Bank Research Observer 251.

[36] Jomo K. S., ‘A Critical Review of the Evolving Privatization Debate’ in Gérard Roland (Editor), *Privatization: Successes And Failures* (Columbia University Press 2008) 199-201. See also Paul Stevens and others, *Conflict And Coexistence In The Extractive Industries* (Chatham House 2013) 18-20.

Vernon asserted that as per the 'obsolescing bargain', petroleum exporting countries no longer need IOCs as the source of capital, as the revenue from the sale of crude was already giving these countries a sense of independence and the access to technology for the exploitation of the petroleum resources which can be obtained from the growing number of independent oil companies.[37] This situation might be exact in some petroleum exporting countries such as Saudi Arabia and Russia. However, in other exporting countries such as Nigeria and Angola, it can still be argued that they rely to a great extent on the IOCs for capital, technology and the exploitation of the petroleum resources.[38]

With the strategic position of NOCs in the global petroleum industry, it is not clear in which direction the global petroleum industry will move.[39] Naná de Graaf put forward some perspectives on the shape the global energy order will take and stated:

> …an unidirectional shift towards either a more state-dominated energy sector nor towards a liberalized global free market exclusively dictated by private forces, or towards an increasingly energy order in which all kinds of statist, private, and hybrid alliances & coalitions of interest mix in the competition over resources, but which remains wedded to a system of states with distinct and at times conflicting interests and strategies and thus with an ever present geopolitical dimension underneath.[40]

As in all the proposed direction the global energy industry could take, it is evident that the roles played by the NOC, state and IOCs remain significant, thus possibly, giving the NOC a lasting role in the global energy order. Studies have shown that today the global petroleum industry is dominated by NOCs and important ones that leave their borders and are commercial.[41] At present, in the global petroleum

[37] See Raymond Vernon, 'Sovereignty At Bay Ten Years After' (1981) 35 International Organization 517.
[38] See Alexey Bereznoy, 'Catching-Up With Supermajors: The Technology Factor In Building The Competitive Power Of National Oil Companies From Developing Economies' [2018] Industry and Innovation 127 and Emmanuel Graham and Jesse Salah Ovadia, 'Oil Exploration And Production In Sub-Saharan Africa, 1990-Present: Trends And Developments' (2019) 6 The Extractive Industries and Society 593.
[39] See Naná de Graaff, 'The Hybridization Of The State–Capital Nexus In The Global Energy Order' (2012) 9 Globalizations 231, and Jonah D Levy (ed), *The State After Statism* (Harvard University Press 2006) 3 – 7.
[40] Ibid.
[41] See Robert J. Weiner and Reid W. Click, 'Resource Nationalism Meets The Market: Political Risk And The Value Of Petroleum Reserves' [2009] SSRN Electronic Journal; Sajjad M. Jasimuddin and Munir Maniruzzaman, 'Resource Nationalism Spectre Hovers Over the oil industry: The transnational Corporate Strategy to Tackle Resource Nationalism Risks' (2016) 32(2) Journal of Applied Business Research (JABR) 387; S. Guriev, A. Kolotilin and K. Sonin, 'Determinants of Nationalization in the Oil Sector: A Theory and Evidence from Panel Data' (2009) 27 journal of Law, Economics, and Organization 301.

industry, some NOCs like Saudi Aramco are planning to go public, by offering its shares on the international stock market.[42] Although these planned initial public offerings (IPOs) have not yet materialised, the mere fact that it is on the agenda of these NOCs shows the shape the industry could take. Therefore Naná de Graaf's opinion that the petroleum industry being a mixture of state control and private control seems not far from the present reality of the global petroleum industry.

It is generally held that in petroleum-rich developing countries, for those in favour of resource nationalism, it can play a major part in progressing the countries development objectives; thus attention needs to be paid to the role of political factors surrounding policy-making that influences the government decisions about its resources, for instance, the countries domestic political systems and governments' policy objectives.[43] The primary goal should be value creation for the people through the effective management of petroleum resources. If nationalist resource policies achieve these goals for the people, without any adverse effect on external players in the industry, as these policies are usually state-centric, then the government would be seen to have created value through petroleum resources.

The following are some of the key elements, and foundations of resource nationalism

4.2.1 Permanent Sovereignty Over Natural Resources

When it comes to natural resource allocation, international law plays a significant part in shaping the underlying framework, by establishing rules under which nations and especially resource developing states will assert property rights over

[42] See 'Saudi Aramco IPO Delayed Until 2019, UK Officials Told' (*Ft.com*, 2018) <https://www.ft.com/content/62fa88b0-21f4-11e8-9a70-08f715791301> accessed 3 May 2018; 'Pemex CEO Says We Must Move To IPO, But Will Take Years' (*Rigzone.com*, 2018) <https://www.rigzone.com/news/wire/pemex_ceo_says_we_must_move_to_ipo_but_will_take_years-25-apr-2018-154383-article/> accessed 3 May 2018.

[43] Jeffrey D. Wilson n 13. See also Eve Warburton, 'Resource Nationalism In Indonesia: Ownership Structures And Sectoral Variation In Mining And Palm Oil' (2017) 17 Journal of East Asian Studies 285.

natural resources.[44] The concept of sovereignty has existed for centuries. However, the 1962 United Nations Resolution[45] was the first concrete expression of the principle of permanent sovereignty over natural resources which officially recognised the sovereign and permanent rights of people and nations over their natural resources, which entitled them to exercise this right of national development and welfare of the people of the state.[46]

Expressively, the resolution considered the position of a more significant number of capital-importing, and developing countries acting on informed self-interest as opposed to the small voting power of the capital-exporting countries.[47] It was part of a campaign to reinforce the economic and political sovereignty of the recently independent states following decolonisation.[48] Nevertheless, this study is well aware of the debates over the interpretation[49] of the principle or right of

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[44] Richard B. Bilder, 'International Law And Natural Resources Policies' (1980) 20 Natural Resources Journal 451.

[45] Permanent Sovereignty over Natural Resources, UNGA Res 1803 (XVII) (14 December 1962) UN Doc A/RES/1803.

[46] Nico Schrijver, *Sovereignty Over Natural Resources* (Cambridge University Press 1997) 2. Sovereignty has served as the foundation for international law, ever since the treaty of Augsburg 1555 and the Peace of Westphalia 1648.

Also, this declaration also recognised the right of any host state when it nationalises or expropriates the property of IOCs or foreign investors. See Yogeshi Tyagi, 'Permanent Sovereignty Over Natural Resources' (2015) 4 Cambridge Journal of International and Comparative Law; Emeka Duruigbo, 'Permanent Sovereignty and Peoples' Ownership of Natural Resources in International Law' (2006) Vol 38, Issue 1 The George Washington International Law Review 33; John Agnew, 'Sovereignty Regimes: Territoriality And State Authority In Contemporary World Politics' (2005) 95 Annals of the Association of American Geographers 437. See also Pauline Jones Jones and Erika Weinthal, *Oil Is Not A Curse: Ownership Structure And Institutions In Soviet Successor States* (Cambridge University Press 2010) 60.

[47] Karol N. Gees, 'Permanent Sovereignty over Natural resources' (1964) 13 International and Comparative Law Quarterly 398; Nico Schrijver (n 46) 3-7; Stephan Hobe, Evolution of the Principle on Permanent Sovereignty Over Natural resources, in Marc Bungenberg and Stephan Hobe (Editors), *Permanent Sovereignty Over Natural Resources* (Springer 2015) 6-7.

[48] Nico J. Schrijver, Fifty Years Principle on Permanent Sovereignty Over Natural Resources: The 1962 UN Declaration as the Opinio Iuris Communis, in Marc Bungenberg and Stephan Hobe (eds), *Permanent Sovereignty Over Natural Resources* (Springer 2015) 16-17.

[49] Schrijver termed the principle of permanent sovereignty over natural resources as one of the more controversial new principles of international law since World War II. After decolonisation the developing countries sought to assert their control over their natural resources, through the development of new principles and rules of international law which will in turn help them promote their social economic development. The principle of permanent sovereignty over natural resources granted these states the right to enjoy benefits of resource exploitation albeit allowed for unequal legal arrangements, which can now change the rights of the foreign investors or even revoke their rights which led to opposition by the industrialised countries while citing the respect for acquired rights and the principle of *pacta sunt servanda*. See Nico Schrijver (n 46) 1 – 7. Also Stephan Hobe (n 48) 4 – 5; Nico J. Schrijver (n 46) 17-18.

In carrying out analytical review on the evolution of UN's work on permanent sovereignty over natural resources to the final instrument that was adopted, Karol Gess iterated the utterance of the United States representative during the debate at the 32nd session:

> the problem was not what the Council collectively believed the resolution to mean, but what others might be led to believe it meant. See Karol N. Gess (n 33).

permanent sovereignty over natural resources. This thesis will not be engaging in that, rather a sweeping view of the principle will be used in connection with the phenomenon of resource nationalism in the global petroleum industry.[50] Professor Tyagi asserted that permanent sovereignty over natural resources is a principle of international law and also a right of the state which gives a dual legal identity.[51] He stated that the principle is widely accepted while the right is often contested, and important to realize that a legal principle is usually expressed with open language to provide general guidance while a legal right is more precise in language to govern legal relationships in particular contexts.[52] Furthermore, it has been confirmed in several arbitral and judicial cases as an international principle, thus giving the principle a legal status as many states have adopted it.[53] It further serves as the legal foundation for a long list of rights that emerges from the principle, from the right to possess, use, freely dispose of, explore, exploit, market, manages, and conserve the natural resources on land or in the sea.[54]

Furthermore, Bernard Taverne observed that ownership of petroleum resources as occurring in their natural state, is a starting point of any regulation of petroleum activities in a state. Nonetheless, the issue of ownership of petroleum resources in a wider context has been and is still a subject of international debate amongst countries. See Bernard Taverne, *An Introduction To The Regulation Of The Petroleum Industry* (Graham & Trotman 1994) 223; Seán Patrick Eudaily and Steve Smith, 'Sovereign Geopolitics? – Uncovering The "Sovereignty Paradox"' (2008) 13 Geopolitics 309-334.

[50] Furthermore, the 1974 UN General Assembly Declaration on the Establishment of the New International Economic Order (NIEO Declaration) and the 1974 Charter of Economic Rights and Duties of States (CERDS) was aimed to supplement the 1962 UN Resolution by presenting the principle of permanent sovereignty over natural resources in the language of rights and duties. See Yogeshi Tyagi n 46.

See Concerted Action for Economic Development of Economically Less Developed States, UNGA Res 1515 (XV) (15 December 1960) UN Doc A/RES/1515(XV);

Declaration on the Establishment of a New Economic Order, UNGA Res 3201 (S-VI) (1 May 1974) UN Doc A/RES/S-6/3201; Charter of Economic Rights and Duties of States, UNGA Res 3281 (XXIX) (12 December 1974) UN Doc A/RES/29/3281.

The United Nations resolution on permanent sovereignty over natural resources from a legal point of view is noteworthy as it is a positive reaffirmation of four principles of international law:

1. That compensation must be paid in the event of a lawful taking of rights and property;
2. That the payment of such compensation must be in accordance with international law;
3. That investment agreements between States and IOCs have a binding effect;
4. That arbitration agreements between States and IOCs have a binding effect.

See Karol N. Gees (n 47); Stephan Hobe, Evolution of the Principle on Permanent Sovereignty Over Natural resources, in Marc Bungenberg and Stephan Hobe (eds) (n 48) 4-11.

Additionally, Emeka Duruigbo contends that the right to permanent sovereignty is not vested in the state, rather it is vested in the people and they are the owners of the natural resources and the governments are trustees of these resources whom manage the resources for the benefit of the people. Norway is a good example of a country that utilizes the natural resources of the country for the benefit of the citizens. On the other hand, some writers assumed that people's rights and the states' right are similar and they use it interchangeably to express the rights of the state over its natural resources. See Emeka Duruigbo (n 46); James D. Fry and ElFadil Ibrahim n 22.

[51] See Yogeshi Tyagi n 46.

[52] Ibid.

[53] See Texaco Overseas Co. and California Asiatic Oil Co. v. Government of the Libyan Arab Republic, Award of 19 January 1977, 17 ILM (1978) 1; ICJ, Democratic Republic of the Congo v. Uganda, Judgment of 19 December 2005, ICJ Reports 2005, 1, 87, mn. 244.

[54] Nico J. Schrijver (n 46) 25-26.

1965 to 1980 marked the period in which developing countries started exercising their right to permanent sovereignty over natural resources and began changing their investment policies and legislation towards the state's mineral development.[55] Although, historically nationalisation was one of the observed ways in which these developing countries demonstrated their sovereignty over their natural resources.[56] Most importantly, these new laws reflected the ownership rights of the state while upholding the principle of permanent sovereignty over natural resources.[57]

It is recognised that the principle will be the primary foundation for economic development and the redistribution of wealth and power, causing developing countries to actively pursue the implementation of the principle of permanent sovereignty over natural resources.[58] Wälde argued that the setting up of state enterprises or NOCs would assist the state to manage better and develop its natural resources.[59] This was another turn of events after the change in mineral laws and policies by these developing countries.[60] Many proposals have been put forward when it comes to ways of properly managing petroleum resources, for instance, Wälde proposed, a postponement of mineral development by developing countries until the state sectors and institutions are strengthened.[61] He called it a period of strengthening and gaining knowledge of the mineral industry. This would benefit a resource-rich developing state, rather than the alternative of rushing into the development of these natural resources without having a formidable institution to support their petroleum industry.[62] Furthermore, in this work, the importance of a strong institution in the development of natural resources will be critically discussed. In the stewardship of the petroleum resources in a state, the public, in theory, has interest and responsibilities towards its petroleum resources

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55 Bernard Mommer n 20. See also, Thomas Wälde, 'Permanent Sovereignty Over Natural Resources Recent Developments In The Mineral Sector' (1983) 7 Natural Resources Forum 239; Sajjad M. Jasimuddin and Munir Maniruzzaman n 41; John Agnew n 46; Richard B. Bilder n 44; Daniel Augenstein, 'Paradise Lost: Sovereign State Interest, Global Resource Exploitation And The Politics Of Human Rights' (2016) 27 European Journal of International Law.
56 Ibid.
57 Thomas Wälde n 39.
58 Nico Schrijver (n 46) 82-83; Bernard Taverne (n 49) 223 – 227.
59 Thomas Wälde n 39.
60 Ibid. See also, Paul R. Lachapelle and Stephen F. McCool, 'Exploring The Concept Of "Ownership" In Natural Resource Planning' (2005) 18 Society & Natural Resources 279.
61 Ibid.
62 Ibid.

and therefore needs to be informed about their petroleum resources and the ways it has been managed.

Finally, the principle of permanent sovereignty over natural resources was born in the General Assembly of the United Nations and evolved from a political claim to an accepted international law principle.[63]

Finally, in Professor Bilder stated that:

> National sovereignty should not be viewed not as an ideological absolute, but as a functional approach to the achievement of national goals.[64]

Therefore, in whatever way a nation chooses to express their sovereignty within the confines of national and international law, the end game should always be to accomplish the national goals of economic development, thus, giving the resource nationalism policies a form of support. Important to note that the expression of permanent sovereignty over natural resources has been carried out by both developed and developing countries. Natural resources continue to be the underlying factor. As a result, whenever there is a massive discovery of petroleum resources, primarily when located within the borders of the state, the need to echo these rights becomes apparent.

4.3 Revisiting the Meaning of Resource Nationalism

Many authors and scholars are yet to agree on one definition or interpretation of resource nationalism. Professor Paul Steven stated that restricting the operations of IOCs and asserting a substantial national control over natural resource development are assumed to be the two main parts of resource nationalism.[65] The moving of the political and economic control of its petroleum resources sector away from IOCs to state-controlled companies is what resource nationalism comprises in a petroleum resource-rich nation.[66] However, some governments

[63] Nico Schrijver (n 46) 33.
[64] Richard B. Bilder n 44.
[65] See Paul Stevens n 19.
[66] See Ian Bremmer and Robert Johnston n 12.

instead seek to increase the rents they accrue from the exploitation of their natural resources rather than restricting the operations of the IOCs. Only when restrictions on IOCs activities are involved, then one can say the state carried out expropriation.

Luciani posits that it is hard to draw a line between resource nationalism, political instability and conflict in real life.[67] Although he went on in his literature to support his assertion, one might argue that resource nationalism can occur without the presence of political instability or conflict, because today resource nationalism debates are strongly tied to the price of crude. Therefore, as the price of oil goes up, the more the state will want from their resources; thus, they embark on resource nationalism. Complementary to the Stevens comments, Luciani went further to define resource nationalism as the complete policies adopted by a state that limit the access to its petroleum resources from IOCs or foreign investors.[68] The control of petroleum revenues for political aims, strengthening of ownership over petroleum resources to the form of resource nationalism embarked by importing or consuming countries in securing petroleum resources are some of the broad scopes of definitions of resource nationalism.[69]

Different definitions and meanings of resource nationalism are put forward, for instance, Arbatli stated that:

> resource nationalism are the complete set of strategies that a host state uses to increase control over its natural resource wealth at the expense of foreign participation and investment.[70]

The author's use of control as the main component of his definition while giving meaning to the phenomenon, failed to mention the ownership component of the phenomenon, especially after the post-colonial era when petroleum-rich developing countries were looking to establish their rights of ownership over their natural resources. However, the author included an analysis of ownership structure in her resource nationalism debate. Important to realize that NOCs do

[67] See Giacomo Luciani n 21.
[68] Ibid.
[69] See Ekim Arbatli n 6.
[70] Ibid.

not only come from oil-rich nations but also oil-importing countries like China, India and Japan.[71]

Similarly, Trudgil observed that limiting the operations of IOCs and asserting sovereign control over natural resource development, while guarding the national petroleum industry against foreign influence is what resource nationalism is understood to be.[72] Luciani observed that this limitation or restriction to the access to petroleum resources usually exist de facto or are set out in the law of the state.[73] For instance, the Mexican government, included the exclusion of IOCs from its upstream petroleum in the constitution.[74]

Professor Stevens contended that the struggle between national and foreign interests over natural resources is one way to describe resource nationalism.[75] Bremmer and Robertson equally added that the attempt by some natural resource-rich states to move economic and political control from the IOC to state-controlled companies of its petroleum sector is what resource nationalism is.[76] Important to note is that this pursuit of high state control of their petroleum resources could be direct or indirect, which still embodies the characteristics of resource nationalism.[77]

As observed, resource nationalism has no single definition, and every resource-rich country has its features and motivations of resource nationalism innate to the country.[78] Nonetheless, the diverse set of policies and practices used by these countries in nationalising their petroleum industry could be termed resource nationalism.[79] Between 2006 and 2014 the governments of Argentina, Bolivia,

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71 See Sajjad M. Jasimuddin and Munir Maniruzzaman n 41.
72 See Charlotte Joy Trudgil, 'International oil companies and petroleum legal policy in Iran: Evolution in the shadow of resource nationalism, 1951-1980' 2 SOAS law journal 2015 129. See also Jeffrey D. Wilson n 13.
73 See Giacomo Luciani n 21.
74 Ibid.
75 Paul Stevens, 'International oil companies the death of the old business model' (Chatham House 2016) <https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2016-05-05-international-oil-companies-stevens.pdf> accessed 16 January 2017; Paul Stevens n 19; Halina Ward, 'Resource Nationalism And Sustainable Development: A Primer And Key Issues' [2009] International Institute for Environmental Development.
76 Ian Bremmer and Robert Johnston n 12.
77 See Vugar Gojayev n 12 and Halina Ward n 73.
78 Kuanysh Sarsenhayev, 'Kazakhstan Petroleum Industry 2008 – 2010: Trends of Resource Nationalism Policy?' (2011) Journal of World Energy Law and Business Vol. 4 No. 4 369.
79 Paul Alexander Haslam and Pablo Heidrich (n 15) 1-2.

Ecuador and Venezuela announced full or partial nationalisations of their petroleum and mining industry.[80] In other words, when a country that is rich in petroleum resources does not leave the exploitation to global market processes, instead they set about achieving some of their national development goals by using their legal jurisdiction over these resources, these processes can be said to involve resource nationalism.[81] When governments seek to assert control over natural resources for strategic, political or economic reasons using its policies it has undertones of resources nationalism.[82]

The state, when carrying out resource nationalism, is supported by their right to control and own natural resources that are located within their territory, without any interference from foreign authority.[83] As has been evidenced, the weathering of the dominance of the IOCs in the international petroleum industry was because of resource nationalism.[84]

The 'inherent and overriding right' of the state to control the use of its natural resources is what permanent sovereignty portrays.[85] Likewise, the expression of a state's resolution to gain the maximum national advantage from the exploitation of its natural resources is, in essence, resource nationalism.[86] The willingness of a nation to take certain actions toward their petroleum resources that may be detrimental to the IOCs or foreign investors in the state can be pointed out among other things to be resource nationalism.[87] Unlike the resource nationalism of the 1970s, today's resource nationalism is driven by a more complex and varied set

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[80] See Guillaume Fontaine, José Luis Fuentes and Iván Narváez n 6.

[81] Jeffrey D. Wilson, 'Resource Nationalism or Resource Liberalism? Explaining Australia's Approach to Chinese Investment in its Minerals Sector' (2011) 65 Australian Journal of International Affairs 283.

[82] See Sam Pryke n 7. See also Antulio Rosales n 8 and Andreas Pickel, 'Explaining, And Explaining With, Economic Nationalism' (2003) 9 Nations and Nationalism 105-127.

[83] See Paul Stevens n 19; Jeffrey D. Wilson n 13; Sajjad M. Jasimuddin and Munir Maniruzzaman n 41; A Butler, 'Resource Nationalism And The African National Congress' (2013) 113 The Southern African Institute of Mining and Metallurgy <http://www.scielo.org.za/pdf/jsaimm/v113n1/05.pdf> accessed 18 June 2018; Ahmad D. Habir, 'Resource Nationalism And Constitution Jihad' [2013] Southern Asian Affairs 121-134.

[84] See George Joffe and others n 16; Charlotte Joy Trudgil n 68.

[85] Franz Xaver Perez, 'The Relationship Between "Permanent Sovereignty" And The Obligation Not To Cause Transboundary Environmental Damage' (1996) 26 Environmental Law 1187.
Also, the most significant statement regarding permanent sovereignty over natural resource was the United Nations General Assembly Resolution 1803 (XVII) which set the tone for the resource nationalism phenomenon. See UN General Assembly Resolution on the Permanent Sovereignty over Natural Resources, Resolution 1803 (XVII) of 14 December 1962.

[86] George Joffe and others n 16. See Jason Pierce, 'A South American Energy Treaty: How The Region Might Attract Foreign Investment In A Wake Of Resource Nationalism' (2011) 44 Cornell International Law Journal.

[87] Ibid.

of factors than the price of oil alone, which was the main factor during the 1970s.[88] Factors like global energy security, climate change, sustainable development and poverty reduction are all connecting factors that need to be understood in the context of resource nationalism today.[89] Nationalisation by a host government in no small degree has been accepted and seen as the entitlement of the government, if it is carried out on conditions, to protect the public interest and in the exertion of its sovereign rights.[90] Sovereign states have legitimate goals toward which they endeavour to marshal the natural resources under their control.[91]

The push by a state to take full control of all the facets of the natural resource industry can also be termed resource nationalisation.[92] In Africa or to be specific sub-Saharan Africa, indigenisation programmes like local content policies take the form of resource nationalism in these areas, and these resource nationalism policies, promise to bring the benefits to the average citizen from the exploitation of the petroleum resources in these areas.[93] The results of these policies have been very disappointing in these areas and the average citizens barely benefit from the exploitation of the petroleum resources in the state.[94]

When a state embarks on resource nationalism in its petroleum industry, the government may resort to nationalisation in varied manners and degrees. For instance, it may depend on minimum state control over the petroleum industry through joint-venture and association contracts, or full control through direct exploitation of petroleum resources by its NOC.[95] Following this analysis, it, therefore, means that for a state to say it has full control of its petroleum industry,

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88 See Halina Ward n 73.
89 Ibid.
90 Paul Stevens n 19.
91 See Raymond Vernon, *Sovereignty at Bay: The Multinational Spread of U.S. Enterprises* (Longman 1971) 249.
92 Ruben Berrios, Andrae Marak and Scott Morgenstern, 'Explaining Hydrocarbon Nationalization In Latin America: Economics And Political Ideology' (2011) 18 Review of International Political Economy 673-697.
93 Stephen Burgess and Janet Beilstein, 'This Means War? China's Scramble For Minerals And Resource Nationalism In Southern Africa' (2013) 34 Contemporary Security Policy 120-143.
94 See Valérie Marcel and others, 'A Local Content Decision Tree For Emerging Producers' [2016] Chatham House <https://www.chathamhouse.org/sites/default/files/publications/research/2016-07-13-local-content-decision-tree-marcel-tissot-paul-omonbude.pdf> accessed 24 February 2020.
95 Guillaume Fontaine, Ivan Narvaez and Susan Velasco, 'Explaining A Policy Paradigm Shift: A Comparison Of Resource Nationalism In Bolivia And Peru' (2017) 20 Journal of Comparative Policy Analysis: Research and Practice 142-157. See also, Ahmad D. Habir n 81.

it must be involved and participate in the exploration and production sector of the industry. Most importantly, it must do this through its NOC. As has been observed throughout the events of resource nationalism in some countries, especially the developing ones, resource nationalism does not always lead to a state's direct participation in the exploration and production sector of the upstream industry.

Ownership and control thus become the two reoccurring concepts within most of the definitions and will be used in analysing resource nationalism in this study. The critical analysis will be within the context of the level of ownership and control which the select states exert over their petroleum resources and industry.

4.4 Considering Resource Nationalism

The period from the 1950s through to the 1970s saw producing nations gain more from their natural resources due to the wave of resource nationalism, unlike the previous periods when the concessions granted the IOCs were disadvantageous to the nations.[96] Unlike the resource nationalism of the 1950s – 1960s, the resource nationalism of today is said to be more pragmatic and opportunistic, where the state still maintains a conducive environment where the IOC roles are preserved, and at the same time tightening state ownership and increasing the government's take from the exploitation of the resources.[97] The resource nationalism of today is not usually a fight against Western capital expansion and the dominance of the "Seven Sisters'. Instead, it is the recent movement by these resource-rich states to expand globally.[98] It may be to catch up with Western states and compete with them or break away from the dominance of these Western states or the colonial rulers, that is the issue behind today's wave of resource nationalism.

Various studies have put forward several arguments about the determinants of resource nationalism. The increase of the government's ownership stake and

[96] Stefan Andreasson n 12.
[97] Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 56-59.
[98] See Naná de Graaff n 39 and Ekim Arbatli n 6.

increase in taxes, and royalties are different forms in which resource nationalism occurs.[99] Many reasons have been put forward by researchers on the rationale behind the nationalisation of the petroleum industry by a government. It mostly falls under maximisation of revenue from natural resources; the state's assertion of control over the petroleum industry and development through the government's enhanced capacity to manage the petroleum industry.[100]

Mahdavi using statistical historical nationalisation analysis and quantitative case comparison expressed that the main drive for nationalisation by governments is to maximise revenue from the natural resources.[101] The expropriation that occurred enabled the state to gain control of the hard assets of the IOCs like rigs, pipelines, and drilling equipment, but the increase in the share of the profits from the petroleum industry is the most crucial aspect that is attributed to expropriation.[102] For instance, President Evo Morales of Bolivia upon becoming the president criticised the country's neoliberal model of development and argued that the neoliberal model was not the solution for the people of Bolivia and that the privatisation of the country's natural resources leads to more hunger and hardship.[103] How well these strategies worked for the government and state is yet to be evidenced.

Public utility, security or the national interest were grounds stipulated in Resolution 1803 (XVII) for nationalisation, expropriation or requisition. Therefore the right invalidated private interests both foreign and domestic.[104] The state can then accumulate 100% of the profits from the sale of petroleum resources through its NOC.[105] Although, this might be true in some countries, yet situations in countries like Nigeria where the reliance on IOCs for the actual production of these resources through a profit-sharing agreement, means that the government cannot

[99] Samuel K. Gayi and Janvier D. Nkurunziza, 'Trends in Minerals, ores and Metal Prices' in Paul Alexander Haslam and Pablo Heidrich (n 15) 36.
[100] Paul A. Haslam and Pablo Heidrich, Towards a Theory of Resource Nationalism in Paul Alexander Haslam and Pablo Heidrich (n 15) 224-225.
[101] See Paasha Mahdavi, 'Why Do Leaders Nationalize The Oil Industry? The Politics Of Resource Expropriation' (2014) 75 Energy Policy 228.
[102] Ibid.
[103] Brent Z. Kaup, 'A Neoliberal Nationalization?' (2010) 37 Latin American Perspectives 123.
[104] Nico Schrijver (n 46) 289 – 291; Bernard Taverne (n 49) 224.
[105] See Paasha Mahdavi n 99.

take 100% of the profits even after it has nationalised its petroleum industry.[106] Vivoda maintained that the reason for the resurgent resource nationalism of the 2000s was the high oil price and this, in turn, became one of the main factors for the fall of the IOCs.[107]

Another critical point in discussing resource nationalism is the obsolescing bargaining theory developed by Vernon, which in summary, expounded that where the relationship is between the host government and IOCs they are characterised by conflicting interests and change in the bargaining power over time, usually in favour of the government.[108] This usually comes about after the IOCs have invested in a project, capital, technology, and managerial skills as these are the advantages the IOCs hold over the government, and are thus reflected in terms of the agreement with the state. However, once the company starts the extraction process, fixed capital investments become sunk, the power asymmetry is now in favour of the host government leading to a renegotiation of the initial agreement terms.[109] Further, in analysing the reasons, states embark on an obsolescing bargain as a form of resource nationalism, and many variables should be considered. According to Vernon, in consideration of these variables, one can easily find themselves moving away from variable economics aspect to the political, social, and cultural variables.[110]

Another argument about the determinants of resource nationalism focuses on the cyclical nature of the rise and decline in state control over the petroleum resource sector.[111] Hence, the global petroleum industry has been known to have a cyclical nature, the bargaining and negotiation power between the host states and their NOCs and IOCs in determining the division of rents historically has shown the

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[106] Ibid.

[107] Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 56.

[108] Raymond Vernon (n 91) 46-53.

[109] See Paul Stevens and others (n 36) 42-43; Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 54-58; Ekim Arbatli n 6; Sajjad Jasimuddin and A F M Maniruzzaman, 'Reshaping International Oil Companies' Response Mechanism To Deal With The Spectre Of Resource Nationalism' (*Researchportal.port.ac.uk*, 2012) <https://researchportal.port.ac.uk/portal/files/1804815/JASIM_BAM_CARDIFF_SEP_2012_PAPER_2_.pdf> accessed 10 April 2018. See also, Noel Maurer n 16.

[110] Raymond Vernon (n 91) 230.

[111] See Ekim Arbatli n 6.

cyclical nature of the industry.[112] Furthermore, the cyclical idea posits that resource nationalism is driven by fluctuations in global crude prices which in turn affects the bargaining power of the governments against IOCs.[113] High crude prices make investment attractive for IOCs, which would lead them to accept terms or renegotiation from the host government. In today's petroleum industry, when the oil price has plummeted, what will be the terms which IOCs, NOCs and governments will be negotiating?

Under the circumstances of high oil prices, the bargaining power is with the host government. Conversely, during periods of low crude prices, the IOCs would not be willing to take the risk and renegotiate prior contracts; hence the host governments lose their bargaining power, thus leading to a shift of bargaining power to the IOCs.[114] Questions arises as to how the global petroleum industry will adjust, also the governments in these periods of low oil prices.

The third strand of argument of the determinants of resource nationalism focuses on the political goals and institutional quality.[115] Important to note, that no matter the driver of resource nationalism in a state, the ultimate goals especially, on the part of the government are the ownership of the nation’s natural resources, greater control over the petroleum industry and most importantly, to maximise revenue from the exploitation of the petroleum resources. On the part of the people of the state that are endowed with petroleum resources, the goal is to benefit from the exploitation of these natural resources.

4.4.1 Theoretical Analysis of Old and New Interpretations on Resource Nationalism

The scope and application of resource nationalism have changed over the last decades, and one might argue that it is still on the agenda of any resource-rich

[112] See Sajjad M. Jasimuddin and Munir Maniruzzaman n 41.
[113] Vlado Vivoda n 9.
[114] Ibid.
[115] Ekim Arbatli n 6.

country, whether a developed or developing country. Thus, contemporary resource nationalism differs from the old resource nationalism in specific ways.

4.4.1.1 From Ideology to Pragmatism

The 1970s marked the high point of confrontation between resource-rich governments and the IOCs, and this can be argued as so, due to the historical circumstances in the global petroleum industry.[116] For instance, after the cold war, energy was seen as one of the 'commanding heights' of any economy which should be controlled by the state.[117] Thus state intervention in the petroleum sector became a political matter. Backing state involvement in the petroleum sector was the 'right of permanent sovereignty over natural resources' which was recognized in the United Nations resolutions on permanent sovereignty in 1952, 1962 and 1966.[118]

These ideological motives required government intervention, but today the political and economic motives replaced the ideology, which favoured minimal government intervention, along with trade openness and accepting FDI as a petroleum sector growth policy.[119] Arbatli further commented that today, the relationship between governments and IOCs are defined by pragmatic motives rather than ideology.[120] Resource liberalisation today has undermined the popularity of resource nationalism led by the idea of permanent sovereignty over natural resources.[121] Some of the opposition towards the IOCs from the state was born out of some state ideologies. For example, Marxism as the concept of the class struggle, capitalist exploitation, imperialism and because the socialist ideology that became popular amongst developing countries after World War II.[122]

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[116] See Ekim Arbatli n 6.
[117] S. Guriev, A. Kolotilin and K. Sonin n 41.
[118] Ibid.
[119] See Ekim Arbatli n 6.
[120] Ibid.
[121] Resource liberalisation can be defined as the widening of the scope of private sector participation in the petroleum industry of a country, this is also what neoliberalism is concerned with. Consequently, allowing the petroleum sector of a state to be controlled by the IOCs advanced resource liberalism. See Jewellord T. Nem Singh, 'Who Owns The Minerals? Repoliticizing Neoliberal Governance In Brazil And Chile' (2012) 28 Journal of Developing Societies 229. See also, David Harvey, *A Brief History Of Neoliberalism* (Oxford University Press 2011) 64-66, and David Harvey, *A Brief History Of Neoliberalism* (Oxford University Press 2011) 26-41.
[122] This ideology mainly placed limits on the role of foreign investment. See Raymond Vernon (n 91) 201-202.

There are arguments that in a developing country, the state stands to benefit from the strong presence of IOCs and foreign investment in their country.[123]

Another critical point termed *dependencia* syndrome by Vernon, relates to a situation when states depend on IOCs or foreign enterprises for the exploitation of their natural resources. However, they might benefit but most of this benefit usually goes to a class or group of elites.[124] Vernon expressed that it is a known fact that members of elite groups and political leaders in host countries especially ones from resource-rich developing countries are predominantly conscious of the fact that most IOCs primarily the U.S. controlled ones abide by the "when in Rome…" golden rule.[125] Vernon further contended that governments, especially in developing countries, are drawn to plan of action which involve the sharing of ownership and control within the subsidiaries of these IOCs, as the inevitable fact is that the IOCs stand against the states control and interest.[126]

For example, following the trends of the early Latin American development stage, African elites aimed to control the government structure rather than become modern businessmen, technicians, and managers, hence the excellent reception granted to the IOCs, as they were viewed as supportive of the elite development albeit initially.[127] Important to realise that the goals of the elites of a state are not usually aligned with those of the state. Their goals and objectives are usually personal. Conversely, the intellectual elites usually raise the question of the economic and political disadvantages while depending on the IOCs for the exploitation of the natural resources in a state.[128]

[123] That is, if benefit is measured in such limited economic terms like gross national product or national income. See Raymond Vernon (n 91) 203.
[124] This means that control over these resources are handed over to the IOCs or foreign enterprises. See Raymond Vernon (n 91) 203-204.
[125] Raymond Vernon (n 91) 265.
[126] Raymond Vernon (n 91) 266-267.
[127] For example, Sierra Leone, Ivory Coast, Malaysia, Taiwan, and South Korea elites took this way. See Raymond Vernon (n 91) 196.
[128] Furthermore, some propose the value of independence and freedom of the state in exploiting its natural resources as this is threatened by the IOCs. See Ibid., 200-201.

4.4.1.2 From Full-Scale Nationalisation to Creeping Expropriation

The nationalisation of IOC assets in host countries was the primary tool of resource nationalism in the 1960s and 1970s, but today, direct expropriation and full-scale nationalisation have become exceptions rather than the norm. Instead, a form of indirect (creeping) expropriation has been stated to be the new form of resource nationalism.[129] Under this form of resource nationalism, the investor (IOC) retains legal title to the fields. However, the rights of use are limited by state interference in the natural resource sector through regulatory control.[130] This indirect expropriation can include diverse measures such as changes in hydrocarbon legislation, limits to profit repatriation, renegotiation of existing contracts, domestic price controls, adverse tax changes, production limitations and export restrictions.[131] The most commonly used is tax regulations. For example, Ecuador's Hydrocarbon Law in April 2006 raised the royalty percentages of IOCs windfall revenues from 20% to 50%. 2007 also saw the government further raise the tax total windfall revenues on IOCs to 70%.[132]

Important to note that the level of regulatory control of the upstream petroleum industry of the select state will be assessed in chapter 6, where the regulations guiding these states petroleum industry will be explained. Furthermore, the introduction of local content requirements by host countries is a form of regulatory control used by these countries which require that IOCs in their petroleum industry purchase a percentage of their production materials from the domestic market, as well as employ and train nationals.[133] These local content policies will form part of the analysis in the comparative chapter (chapter 6).

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[129] Ekim Arbatli n 6.
[130] Ibid.
[131] Susan Wacaster, 'The Mineral Industry Of Ecuador' (*Minerals Yearbook-2007*, 2010) <https://minerals.usgs.gov/minerals/pubs/country/2007/myb3-2007-ec.pdf> accessed 14 May 2018. See also, indirect expropriation measures in George Joffe and others n 19.
[132] Ibid.
[133] Although, local content requirements vary across countries in terms of aims, scope, implementation, and compliance regimes. Local content requirements are particularly relevant in Africa, as countries like Ghana, Tanzania, Angola and Nigeria have implemented regulatory control of their various petroleum sector. See Ekim Arbatli n 6; Sveinung Eikeland and Trond Nilsen, 'Local Content In Emerging Growth Poles: Local Effects Of Multinational Corporations' Use Of Contract Strategies' (2016) 70 Norsk Geografisk Tidsskrift - Norwegian Journal of Geography 13-23.

4.4.2 Forms of Resource Nationalism

Free market supporters usually see resource nationalism as the measures embarked by a resource-rich state to restrict the operations of IOCs while asserting greater national control over its natural resource development.[134] Countries are reassessing their foreign policies and their alliances as resource nationalism is on the rise, as the search for energy sources in the world continues.[135] Scholars have advanced some variations of resource nationalism, and it can take many forms, different policies and ideas.[136] Childs postulated that resource nationalism comes in various forms, whether it be a hard or soft resource nationalism policy. Two different opinions are formed on the type of resource nationalism by the geographical location,[137] whereby some places are seen as worse than others.[138] If resource nationalism is said to exist in some OECD countries, it is seen as a valid, legitimate debate with merit. However, in a different geographical focus like sub-Saharan Africa, it is seen in a negative light.[139] The geographical binary between 'hard' and 'soft' resource nationalism has been echoed in the 'legitimate' resource nationalism of the West and the 'risky' resource nationalism of Africa.[140] As the oil-rich African nations of Angola, Algeria, Nigeria and Libya continue to demand more significant ownership stakes in the exploration and production of their natural resources what will that mean for the operations of IOCs in the near future, especially in the period of low oil prices.[141]

It may include revolutionary resource nationalism as witnessed in countries like Russia and Venezuela; economic resource nationalism, in Kazakhstan; Legacy

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[134] John Childs, 'Geography and resource nationalism: A critical review and reframing' (2016) 3(2) The Extractive Industries and Society 539.

[135] See Joseph A Stanislaw, 'Power play — resource nationalism, the global scramble for energy, and the need for mutual interdependence' (Deloitte 2009) <http://expertosenred.olade.org/wp-content/uploads/sites/3/2014/07/IE005-us_er_PowerPlayResource-Nationalism_theGlobalScramble_forEnergyWEB_240209.pdf> accessed 17 July 2017.

[136] Antulio Rosales n 8.

[137] See John Childs n 129. See also Stefan Andreasson n 12.

[138] Free market supporters usually see resource nationalism as the measures embarked by a resource rich state to restrict the operations of IOCs while asserting greater national control over its natural resource development. The form of resource nationalism which does not involve tearing up existing contracts and nationalising its assets is known as soft resource nationalism, often seen in OECD countries where the use of fiscal measures, like taxes and royalty to increase the benefits from the states natural resources. See Ian Bremmer and Robert Johnston n 12; John Childs n 129.

[139] Ibid.

[140] Ibid.

[141] See Robert F Buchanan and Syed Tariq Anwar n 3.

resource nationalism as seen in Nigeria and soft resource nationalism usually observed in OECD countries.[142] President Putin's severe measures on Yukos in mid-2003 was the beginning of the resurgent resource nationalism of the 2000s in Russia.[143] As a result, Russia moved away from liberalisation to high levels of state control. Renationalisation of much of its petroleum industry and increased regulation and higher taxes, which resulted in an anti-FDI petroleum environment.[144] Greater importance was given to state control of the petroleum industry, as Russia was a transitioning economy. With this realisation came new subsoil legislation which was introduced in May 2008.[145] This legislation further made foreign investment in the Russian petroleum industry harder.

In addition to the forms of resource nationalism put forward, 'developmental and market-based' resource nationalism was advanced by Wilson.[146] To enumerate, Wilson stated that resource nationalism that is aimed at resource production towards development outcomes is known as developmental resource nationalism. In contrast, the market-based resource nationalism is one that is common in developed countries or liberal markets where the governments use taxation as a significant tool.[147]

Ian Bremmer and Robert Johnston postulated some forms of resource nationalism, namely, the revolutionary resource nationalism as exhibited by Russia and Venezuela, where its form of resource nationalism is connected to broader political and social disruption.[148] Another characteristic of this revolutionary resource nationalism comes in another form where takeover of assets by forced renegotiation of existing contracts, citing historical injustice or contractual wrongdoing as the grounds for that.[149] Also this form involves the use of political control over natural resources to control and increase a country's political

[142] See Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 56-58 and Stefan Andreasson n 12.
[143] Ibid.
[144] Ibid.
[145] Ibid.
[146] See Jeffrey D. Wilson n 13.
[147] Ibid.
[148] See Ian Bremmer and Robert Johnston n 12. See also Daniel Hellinger (n 23) 204 – 207 and Kuanysh Sarsenhayev n 74.
[149] Ibid.

influence over a region and is implemented by means of forced negotiations and expropriation as witnessed in Russia and Venezuela.[150]

As natural resources are central to a state's national political and cultural identity the state goes on to nationalise its oil and gas assets, this is known as the legacy resource nationalism as seen in Kuwait and Mexico.[151] The form of resource nationalism which does not involve the tearing up of existing contracts and nationalising its assets is known as soft resource nationalism, often seen in OECD countries where the use of fiscals measures, like taxes and royalties increase the benefits from the states natural resources.[152] No matter the form in which resource nationalism takes, as long as it ends up benefitting the state, this is the ultimate goal for the government. The forms of resources nationalism are essential when analysing a state that embarks on resource nationalism. This study concerns the concepts of the theory as it is in these concepts that the roles of a states' NOCs are established.

4.5 Key Concepts Of Resource Nationalism: Ownership and Control

Ownership means the act or right of possession of something, while control means the power to influence, limit or regulate something.[153] Ownership of natural resources is usually stipulated in the constitution of any state and grants the right of possession of these natural resources. Arbatli observed that the increase in petroleum demand and the increase in oil prices fuelled the re-emergence of resource nationalism policies in resource-rich countries in the form of increasingly hostile regulations against IOCs and foreign investors.[154] For instance, with the

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[150] Ibid.
[151] This form is connected to the sovereignty of the state and a state's right over its natural resources. This translates to state ownership of every natural resources within its territory. See Ian Bremmer and Robert Johnston (n 10). See also Kuanysh Sarsenhayev n 74.
[152] This form entails revenue maximization from a state's extractive industries by using legislation and fiscal regulation to promote these goals. This form is linked to the economic type of resource nationalism and is common to OECD countries such as Canada and UK. See Ian Bremmer and Robert Johnston n 12 and Kuanysh Sarsenhayev n 74.
[153] See 'Ownership | Definition Of Ownership In English By Lexico Dictionaries' (*Lexico Dictionaries | English*, 2019) <https://www.lexico.com/en/definition/ownership> accessed 25 June 2019 and 'Control | Definition Of Control In English By Lexico Dictionaries' (*Lexico Dictionaries | English*, 2019) <https://www.lexico.com/en/definition/control> accessed 25 June 2019.
[154] See Ekim Arbatli n 6.

rapid increase in demand for petroleum, the global crude price in 2008 reached the yearly average of 107,06 $/bbl. After a relative drop in the period of 2008 – 2010 due to the global financial crisis, the prices peaked once more in 2011 – 2013 period, getting up to their highest point of $117,23 on average.

As oil prices rose so did the resource nationalism wave. In 2006 five petroleum sector expropriations were witnessed in the global industry. Bolivia, Chad, Ecuador, Russia, and Venezuela.[155] At present, the story is different, and how it will affect the global petroleum industry arrangements will be interesting to observe.

Today in some resource-rich developing countries, the petroleum resources are owned by the state, while the IOCs are allowed to extract the petroleum resources.[156] Direct involvement in the exploration and production of its petroleum resources was one of the directives of OPEC to its member states.[157] According to some industry commentators, some OPEC countries cannot categorically state that it is directly involved in the E&P of its petroleum resources.[158] The definition of 'direct' can be argued in the context of the various forms of upstream participation that go on in the global petroleum industry, especially in a petroleum-rich developing state.

4.5.1 Ownership

Vining and Boardman contended that ownership matters in the global petroleum industry.[159] Using the empirical analysis Vining and Boardman stressed the importance of ownership, and this does not always mean that private ownership

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155 Ibid.

156 Antulio Rosales n 8. See also Douglas A. Yates, *The Rentier State In Africa: Oil Rent Dependency And Neocolonialism In The Republic Of Gabon* (Africa World Press 1996) 223-224.

157 Silvana Tordo, Brandon S Tracy and Noora Arfaa, *National Oil Companies And Value Creation* (World Bank 2011). See also 'OPEC : Oil And Development: The Role Of OPEC: A Historical Perspective And Outlook To The Future' (*Opec.org*, 2019) <https://www.opec.org/opec_web/en/press_room/894.htm> accessed 25 June 2019 and 'OPEC : The Role Of OPEC In The 21St Century' (*Opec.org*, 2019) <https://www.opec.org/opec_web/en/press_room/918.htm> accessed 25 June 2019.

158 Bernard Mommer n 20; Ekhator Osa Eghosa, 'Public Regulation Of The Oil And Gas Industry In Nigeria: An Evaluation' (2016) 21 Annual Survey of International and Comparative Law 43.

159 See Aidan R. Vining and Anthony E. Boardman, 'Ownership Versus Competition: Efficiency In Public Enterprise' (1992) 73 Public Choice 205.

is preferable to state ownership.[160] In the petroleum industry, the ownership of petroleum resources is usually stipulated in the laws of the state in which these resources are found. Thus selected institutions are given the mandate to oversee this. Today, in the global petroleum industry, NOCs are usually the institution used by the government to achieve government control over their natural resources.

In regulating, use, management, transfer and alienation of natural resource endowment the various theories of ownership and control have influenced and formed the foundation for the legal system and property rights that are adopted by some resource-rich countries across the world.[161] Private ownership or state ownership are the theories of ownership and control that are adopted by states or sometimes a mix of both. The adoption of a legal and fiscal framework by a resource-rich developing state has been one of the problems that have plagued the resource-rich developing world.

If the petroleum resource revenue represents a large portion of the economy, then the ownership of these resources becomes significant to the country.[162] Important to note, that no one solution will solve the problems arising from the handling of petroleum resources, each case should be looked at in the specific country context, bearing in mind that petroleum resource governance always generates emotions from people and the arrangements to govern their use and exploitation can be complicated.[163] Drawing on the experience of a developed resource-rich state, an attempt to gain insight into the developing resource-rich state is what this study aims to achieve. This will be carried out in chapter 6 of this study.

This study will examine the structures of control and ownership critically present in the select states. Control whether 'operational' is referenced to Boscheck's work

[160] Ibid.

[161] See Lanre Aladeitan, 'Ownership and Control of Oil, Gas, and Mineral Resources in Nigeria: Between Legality and Legitimacy' (2012) 38 Thurgood Marshall Law Review 159.

[162] See Nicholas Haysom and Sean Kane, 'Negotiating Natural Resources for Peace: Ownership, Control and Wealth-Sharing' (2009) Centre for Humanitarian Dialogue <http://peacemaker.un.org/sites/peacemaker.un.org/files/NegotiatingNaturalResources_HaysonKane2009.pdf> accessed 24 September 2019; Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 155) 28; Michael W. Hansen and others, 'The Economics And Politics Of Local Content In African Extractives: Lessons From Tanzania, Uganda And Mozambique' (2015) 43 Forum for Development Studies 201.

[163] Ibid. See also, 'Guyana's Dodgy Poll Is All About Oil' (*The Economist*, 2020) <https://www.economist.com/leaders/2020/03/19/guyanas-dodgy-poll-is-all-about-oil> accessed 23 March 2020.

and state ownership forms as observed by Luong and Weinthal which have variations, from state control when the upstream operations are carried out by the NOC and the private control when the IOCs run the upstream activities of the state.[164] In all the observed variations, the central theme revolves around state control and ownership, and private control and ownership. Therefore this study looks into these arguments for the best way through state policies and regulations to develop a natural resource to benefit the people better.

The drop in the price of oil in 1986 and the following years, started a movement away from state ownership which saw states like the UK, Italy and France to privatise their oil industries.[165] A close look will be given to a petroleum resource-rich state. Is private control or ownership the answer, or will it be a state control and ownership structure that will better serve the state? People and nations are always passionate when it comes to the subject of the control and ownership of natural resources in their territory which can sometimes lead to controversy amongst them.[166] It is essential to know that the ownership of petroleum resources by the state is not lessened; while on the other hand, real control of the oil and gas industry still belongs to the IOCs.[167] There are several forms of ownership and control of natural resources theories, and they all share similar characteristics.[168]

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[164] See Bianca Sarbu, *Ownership and Control of Oil: Explaining Policy Choices Across Producing Countries* (Routledge 2014) 30; Pauline Jones Luong and Erika Weinthal (n 46) 45-76; Ralf Boscheck, 'The Governance Of Oil Supply: An Institutional Perspective On NOC Control And The Questions It Poses' (2007) 1 International Journal of Energy Sector Management 366, and Pauline Jones Luong and Erika Weinthal, 'Rethinking The Resource Curse: Ownership Structure, Institutional Capacity, And Domestic Constraints' (2006) 9 Annual Review of Political Science 241.

[165] While some other states found it better to commercialise their state-owned companies and changed them into normal companies. The low oil prices made the developing countries eager for foreign investment in the late 1980s and 1990s, which influenced the balance of power in the oil and gas industry. As the IOCs had the technological and the managerial capability, their market control increased, they entered into joint ventures and strategic alliances which led to the IOCs playing a dominant role in the oil and gas industry. But as the oil prices rose so did the bargaining power of the oil-exporting states, high oil prices have always been a driver of resource nationalism, consequently these oil-exporting states embarked on resource nationalist policies. Now the industry competition came from the NOCs which made it hard for the IOCs to book new reserves. See Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 53-54 and Vlado Vivoda n 11.

[166] Lanre Aladeitan n 161.

[167] See Godwin Onuoha, 'A 'Rising Africa' In A Resource-Rich Context: Change, Continuity And Implications For Development' (2015) 64 Current Sociology 277.

[168] In regulating, use, management, transfer and alienation of natural resource endowment the various theories of ownership and control have influenced and formed the foundation for legal system and property rights that are adopted by some resource–rich countries across the world. See Lanre Aladeitan n 161.

Private ownership or state ownership are the theories of ownership and control that are usually adopted by states or sometimes a mix of both.[169] There are various reasons behind the privatisation of public enterprises or state-owned companies by the government. Although the main argument raised by the privatisation promoters is the need to enhance the efficiency of the state-owned firm by transferring the firm to private hands, as the poor performances of public or government firms are well documented.[170] Based on two premises that the public firms or government-run companies perform poorly, compared to the privately-owned companies and the transfer of these state-owned firms to private ownership will improve the efficiency of the state-owned firm, because improving efficiency is one of the main arguments used in justifying the privatisation of state-owned enterprises.[171]

Although the arguments put forward in promoting the privatisation of state-owned firms, on the grounds of enhancing efficiency might be true in some cases, in assessing the extent to which privatisation effectively contributes to the efficiency of the formerly state-owned enterprises is still debatable.[172] Some countries engaged in nationalisation programmes after World War II. However, in the United Kingdom under Margaret Thatcher, she initiated a policy swing in the other direction in the 1980s, by pushing for the privatisation of many of the British public-owned firms and this was followed by Russia and other transition countries.[173] Regardless of the specific institution that governs the exploitation of

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169 Ibid.

170 See Pablo Arocena and Diana Oliveros, 'The Efficiency Of State-Owned And Privatized Firms: Does Ownership Make A Difference?' (2012) 140 International Journal of Production Economics 457; Kathryn L Dewenter and Paul H Malatesta, 'State-Owned And Privately Owned Firms: An Empirical Analysis Of Profitability, Leverage, And Labor Intensity' (2001) 91 American Economic Review 320; Maxim Boycko, Andrei Shleifer and Robert W. Vishny, 'A Theory Of Privatisation' (1996) 106 The Economic Journal 309; Zhaohua Li and Takeshi Yamada, 'Political And Economic Incentives Of Government In Partial Privatization' (2015) 32 Journal of Corporate Finance 169; Peter Toft and Arash Duero, 'Reliable In The Long Run? Petroleum Policy And Long-Term Oil Supplier Reliability' (2011) 39 Energy Policy 6583-6594; Jomo K. S. in Gérard Roland (ed) (n 36) 199-201; Narjess Boubakri and others, 'Privatization And Globalization: An Empirical Analysis' (2013) 37 Journal of Banking & Finance 1898-1914; Narjess Boubakri, Jean-Claude Cosset and Walid Saffar, 'The Constraints On Full Privatization: International Evidence' (2017) 42 Journal of Corporate Finance 392-407; Anthony E. Boardman, Aidan R. Vining and David L. Weimer, 'The Long-Run Effects Of Privatization On Productivity: Evidence From Canada' (2016) 38 Journal of Policy Modeling 1001-1017.

171 Ibid.

172 See Pablo Arocena and Diana Oliveros n 168. See also Gérard Roland, 'Private and Public Ownership in Economic Theory' in Gérard Roland (ed) (n 36) 1-10.

173 Ibid.

these petroleum resources, these resources are the nation's, and thus should be for the ultimate benefit of the citizens of the nation.[174]

Arguments have been put forward supporting the importance of creating good institutions before the privatisation or strengthening of weak institutions.[175] Aharoni and Ascher argued that the conventional recommendation of privatisation, when a state's NOC or state-owned enterprises are underperforming is not usually feasible or may be unwise especially when it comes to state-owned enterprises or NOCs in the petroleum industry of the state.[176] They argued that often the weakness is not in the NOC, but in the broader complex and politicised task of extracting and allocating petroleum rents and a host of other financial resources related to petroleum exploitation.[177]

Jomo commented that instead of dismantling the public sector, there should be a critical comprehensive review of the public sector, including statutory bodies and other public enterprises, to enhance efficiency, cost-effectiveness being geared towards sustainable national economic development, in an industry that is inefficient, for example, the petroleum industry of the state.[178] He went further to assert that privatisation cannot be the global solution for the numerous problems of the public sector.[179] As the problem of public firms are not an ownership problem per se, but rather because of the lack of explicit, or achievable objectives, or even too many objectives, and often contradictory goals could well be the problem of the public sector.[180] This, importantly, is usually the case for some NOCs. Dewenter and Malatesta in their work stated that although government firms are usually less profitable than private firms, they could not find much evidence to support the claims that the privatisation of government firms increase the profitability.[181] In their report paper using empirical evidence on the relatively

[174] Natalie Koch and Tom Perreault (n 4).
[175] Anzhela Knyazeva, Diana Knyazeva and Joseph E. Stiglitz, 'Ownership Change, Institutional Development And Performance' (2013) 37 Journal of Banking & Finance 2605.
[176] Yaird Aharoni and William Ascher, 'Restructuring The Arrangements Between Government And State Enterprises In The Oil And Mining Sectors' (1998) 22 Natural Resources Forum 201.
[177] Ibid.
[178] See Jomo K. S. (n 36) 208-211.
[179] Ibid.
[180] Ibid.
[181] See Kathryn L Dewenter and Paul H Malatesta n 170. See also, Jomo K. S. (n 36) 199-201.

efficiency of public and private firms, demonstrated that the evidence of advanced improvement after privatisation is not very robust.

Further criticism levelled against government-owned entities is that these firms, rather than employ the best-qualified persons, would hire politically connected people, maybe because of pressure from the government.[182] Commentators on privatisation contended that it should be a form of economic strategy available to reformers to reduce inefficiency in government firms.[183] They viewed privatisation as a blend of reallocating control rights over employment from politicians to managers and the increase in cash flow ownership of managers and private investors.[184] Thus privatisation will work as the managerial discretion problem is small when compared to the political discretion problem.[185] The broader market, regulatory and institutional environments are the context on which the effects of privatisation will be dependent when implemented.[186]

Finally, partial privatisation has been promulgated as a form of privatisation that can help a state to benefit from the exploitation of its natural resources.[187] Although the study conducted by Boardman and Vining has strongly argued against partial privatisation.[188] The study suggests that partial privatisation will not be the best strategy for a government and that it would be worse, especially in terms of profitability, than complete privatisation of state ownership.[189] For example, in Western Europe, when it comes to ownership and control in privatised companies, privatisation is partial and incomplete, thus not changing the governance structures and creating a conducive environment for private ownership and public control to coexist.[190] Some of the cases observed today show that when it is supposed to be privatisation, it is only partial divestiture, which

182 Anne O Krueger, 'Government Failures In Development' (1990) 4 Journal of Economic Perspectives 9.
183 Maxim Boycko, Andrei Shleifer and Robert W. Vishny n 170. See also John Vickers and George Yarrow, 'Economic Perspectives On Privatization' (1991) 5 Journal of Economic Perspectives 111.
184 Ibid.
185 Ibid.
186 See John Vickers and George Yarrow n 183.
187 Zhaohua Li and Takeshi Yamada n 170.
188 See Anthony E. Boardman and Aidan R. Vining, 'Ownership And Performance In Competitive Environments: A Comparison Of The Performance Of Private, Mixed, And State-Owned Enterprises' (1989) 32 The Journal of Law and Economics 1-33.
189 Ibid.
190 Bernardo Bortolotti and Valentina Milella, 'Privatization in Western Europe: Stylized Facts, Outcomes, and Open Issues' in Gérard Roland (ed) (n 36) 32-72.

means that the government retains majority ownership, hence ultimate control of the firm.[191] The claims that privatisation will decrease the administrative and financial burdens are misleading and flawed.[192] As the sale of these firms is just a one-off revenue gains for the government.

There has been much literature against the NOC model controlling the exploration and production of the petroleum resources, and the inefficiency of the NOCs.[193] While attributing the NOC inefficiency in terms of ownership, Gong's estimate in his findings are that NOCs are about 60% less efficient than IOCs.[194] Some explanation is based on the principal-agent problems and as the NOCs are controlled by bureaucrats with different goals from that of the public's interest, most of the time they cater for the goals of a select interest group or political parties.[195]

The debate over the management of a country's natural resources has advanced two major arguments, one in support of full state ownership and direct participation in the oil and gas industry while the other argument is that the management of a country's resources should be left in the domain of the private sector, and the hands of IOCs.[196] A state's participation in the ownership and development of its oil and gas resources can come in different forms. Resource nationalism seems to be the primary aim of the state's participation, and this all comes from the aspiration of the government to maintain control of its natural resources.[197]

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191 See Jomo K. S. (n 36) 205-206.
192 Ibid.
193 Chidi Basil Ike and Hyunjung Lee, 'Measurement Of The Efficiency And Productivity Of National Oil Companies And Its Determinants' (2014) 17 Geosystem Engineering; Stacy L. Eller, Peter R. Hartley and Kenneth B. Medlock, 'Empirical Evidence On The Operational Efficiency Of National Oil Companies' (2010) 40 Empirical Economics 623; Peter Toft and Arash Duero n 170.
194 Binlei Gong, 'Effects Of Ownership And Business Portfolio On Production In The Oil And Gas Industry' (2020) 41 The Energy Journal 33.
195 In debating the ownership-versus-environment, 'ownership per se does not determine the performance of the NOC instead, it is the different environments in which the NOC and IOCs operate that explains the efficiency contrast. See Bianca Sarbu (n 162) 26, 32 – 33; Aidan R. Vining and Anthony E. Boardman n 182; Pauline Jones Luong and Erika Weinthal, 'Rethinking The Resource Curse: Ownership Structure, Institutional Capacity, And Domestic Constraints' (2006) 9 Annual Review of Political Science 241.
196 Donald Mmari and Sufian Bukurura, 'Strategic Significance Of National Oil Companies: Lessons For Tanzania' (*Africa Portal*, 2018) <https://www.africaportal.org/publications/strategic-significance-of-national-oil-companies-lessons-for-tanzania/> accessed 14 May 2018. See also Gavin Bridge, 'Resource Geographies II' (2013) 38 Progress in Human Geography 118-130.
197 Ibid.

4.5.2 Control

Boscheck in his work on NOC and the governance of petroleum, expressed different forms of control: political control, regulatory control, management control and operational control.[198] Most resource-rich developing states claim to have control and ownership of their natural resources, although one might argue that a state's control over their petroleum resources can be measured by the share of the state's NOC in the overall national production of petroleum.[199] For example, Cyril Obi in his work, posits that despite the Nigerian state ownership of the petroleum industry, the country lacks control over its petroleum industry.[200] Even though the country's NOC (NNPC) is supposed to champion the exploitation of the country's petroleum industry, and have firm control of the petroleum industry, would the implementation of Boscheck's different level of control over natural resources lead to a success story?

Amid all the ownership and control debates in Nigeria, there is ongoing local debate as to the right to own and control the petroleum resources in the Niger Delta region of Nigeria.[201] Debates whether the Nigerian state or the Niger Delta region have the right of ownership and control of the petroleum resources.[202]

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198 Ralf Boscheck, 'The Governance Of Oil Supply: An Institutional Perspective On NOC Control And The Questions It Poses' (2007) 1 International Journal of Energy Sector Management 366. See also Ekim Arbatli n 6.

199 Cemre Nur Öztürk, 'Ownership And Control Of Oil: Explaining Policy Choices Across Producing Countries' (2016) 12 Review of International Law and Politics 219.

200 Cyril I. Obi, 'The Petroleum Industry: A Paradox Or (Sp)Oiler Of Development?' (2010) 28 Journal of Contemporary African Studies 443-457. See also Edwin Egede, 'Who Owns The Nigerian Offshore Seabed: Federal Or States? An Examination Of The Attorney General Of The Federation V. Attorney General Of Abia State & 35 Ors Case' (2005) 49 Journal of African Law 73 and Theodore Okonkwo, 'Ownership And Control Of Natural Resources Under The Nigerian Constitution 1999 And Its Implications For Environmental Law And Practice' (2017) 6 International Law Research 162.

201 See Rhuks Ako, 'Resource Control In The Niger Delta: Conceptual Issues And Legal Realities' (*E-International Relations*, 2012) <https://www.e-ir.info/2012/05/25/resource-control-in-the-niger-delta-conceptual-issues-and-legal-realities/> accessed 14 August 2019; Theophilus Ekpon, 'Crises Of Natural Resource Control In Nigeria: The Case Of Niger Delta Region' [2011] SSRN Electronic Journal; David Dafinone, 'Supreme Court's Verdict On Resource Control: The Political Imperatives' *The Guardian* (2002) <http://www.waado.org/nigerdelta/ConstitutionalMatters/OffShoreResources-SupremeCourt.html> accessed 14 August 2019 and Itse Sagay, 'Federalism, The Constitution And Resource Control: My Response' *The Guardian* (2001) <http://www.waado.org/NigerDelta/Essays/ResourceControl/Sagay2.html> accessed 14 August 2019.

202 Cyril I. Obi, 'Globalisation And Local Resistance: The Case Of The Ogoni Versus Shell' (1997) 2 New Political Economy 137; Edwin Egede n 194; Theodore Okonkwo n 194 and Itse Sagay, 'Nigeria: Federalism, The Constitution And Resource Control' *The Guardian* (2001) <https://allafrica.com/stories/200105250403.html> accessed 14 August 2019 and Philips O. Okolo and Akpokighe O. Raymond, 'Federalism And Resource Control: The Nigerian Experience' (2014) 4 Public Policy and Administrative Research <https://pdfs.semanticscholar.org/7d02/464c4bd1ab3b6eb319c311dd2c705c237511.pdf> accessed 14 August 2019.

Cameron and Stanley acknowledged that these nationalist sentiments could make the activities of IOCs in these regions controversial.[203] This study recognises the extensive debate and literature on this Niger Delta subject, but engaging in the same will deviate the study from its central theme. Therefore, this study will work on the premise that both Norwegian and Nigerian governments have the authority to allocate rights for the development of a state's petroleum resources as per these country's constitutions. As the importance of petroleum grew in Nigeria, and it became the fiscal basis of the economy, so did the quest for autonomy by the petroleum-rich region of the Niger Delta region.[204] One then wonders if, these resources were absent would this region still clamour for autonomy?

The question that arises is how much control of the petroleum industry can a NOC of a developing nation exert on an industry in which it lacks a high level of technical capability? Can a developing nation that is reliant on Foreign Direct Investment from IOCs into its petroleum industry exert a high level of control over its resources? Accordingly, Kaup in his work on nationalisation in Bolivia, stated that Bolivia recovered the right to commercialise its hydrocarbon resources and also increased the prices it received from the sale of its natural resources after the nationalisation of its natural resources by President Morales.[205]

Some factors have been put forward by some scholars as a way of knowing how much control a state has in its petroleum industry. Firstly, in a petroleum resource-rich developing country the leaders and executives prefer to engage IOCs in the extraction of its natural resources, thus bringing foreign investments into the country which leads to less state control in the upstream sector.[206] Secondly, the inability of the state's NOC to be able to carry out the exploration and production of petroleum by its means shows the lack of technical capabilities,

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[203] Peter Cameron and Michael Stanley, *The Extractive Industries Sourcebook* (World Bank Group 2017) 63.

[204] Cyril I. Obi, 'Oil And Conflict In Nigeria's Niger Delta Region: Between The Barrel And The Trigger' (2014) 1 The Extractive Industries and Society 147. See also, Kenneth Omeje, 'Oil Conflict In Nigeria: Contending Issues And Perspectives Of The Local Niger Delta People' (2005) 10 New Political Economy 321; Tim Wegenast and Gerald Schneider, 'Ownership Matters: Natural Resources Property Rights And Social Conflict In Sub-Saharan Africa' (2017) 61 Political Geography 110; See Samuel C. Ugo, 'Resource Control And Its Challenges To Nigerian Federalism' (2004) 4 The Constitution 57.

[205] As formerly Bolivia had no control of its natural gas as the decision to sell and to whom, what price to sell, and what volume to sell was determined by the IOCs, thus making Bolivia a bystander to the exploitation of its natural resources. See Brent Z. Kaup n 98.

[206] See Cemre Nur Öztürk n 199.

which translates into less state control in the upstream sector of the petroleum industry.[207] Thirdly, it has been observed over the periods of high oil prices that state leaders exercise more control because higher oil prices lead to massive windfalls.[208] Fourthly, more state control would be expected if the level of dependency by a state on oil and gas revenues constitutes their primary source of income.[209]

There are dimensions to control: from the form where complete control is achieved by a state, whether through joint ventures which permits the IOCs to continue doing business in the state but as minority shareholders.[210] Other forms can be when the state takes complete control of the petroleum industry, and this will entail expropriation of IOCs assets and expelling them from the state.[211] There are many mixtures in the way states go about establishing control over its natural resource industry. However, the form chosen by each government determines a lot great deal the economic development and growth of the industry.[212]

Finally, It is crucial for the state that wants to control its petroleum resource industry to regulate it properly. Regulation can be said to be a set of rules enacted under the statute of a state.[213] Barton stated that an institution, an objective or set of objectives, the power to make rules or standards, authorisation and permits, procedure, monitoring, and surveillance, enforcement and accountability make up for the standard traditional state regulations.[214] All the above are essential in ensuring the efficient management of petroleum resources in a petroleum-rich state, and are usually pioneered by the NOC.

When an ownership with control form is established in the petroleum industry, through the NOC, as expected, the managers of the NOC will be concerned with profitability, as they would be motivated by prestige and professional pride which

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207 Ibid.
208 Ibid.
209 Ibid.
210 Ruben Berrios, Andrae Marak and Scott Morgenstern n 92.
211 Ibid.
212 Ibid.
213 Regulation has also been defined as the sustained and focused control exercise by a public agency over the activities that are valuable to the state, like the oil and gas industry. See Barry Barton and others (eds.), *Regulating Energy and Natural Resources* (Oxford University Press 2009) 12-13.
214 Barry Barton and others (eds.) (n. 213) 19 – 20.

comes with competing internationally to win production contracts abroad, which will require the NOC to maintain better control over its finances in carrying out its obligations.[215] NNPC is yet to maintain a high petroleum production through her subsidiary NPDC, and also has no operations abroad.

4.6 NOC Role in State Ownership and Control

Paul Steven asserted that for a state to embark on resource nationalism, there has to be a NOC.[216] The rising power and influence of NOCs in the global petroleum industry have changed the relationship structures in the global petroleum industry, as petroleum-rich countries no longer need to rely on IOCs for capital and technology, as these can be readily available for purchase on the international markets.[217] Additionally, NOCs provide political advantages. The advanced NOCs now ally with other NOCs in the development of natural resources.[218] Ownership control through NOCs guarantees the flow of oil revenues directly to the state's pocket and is available for public spending. NOC dominance has been linked to its role as a promoter of economic growth and development.[219] Promoting growth through oil revenues can be seen as an essential driver of resource nationalism.[220] Thus, resource nationalism has crucial policy implications for both petroleum exporting and importing countries. Arbatli observed that resource nationalism is far from disappearing in the global petroleum industry. However, nationalisations are much less frequent than in the 1960s and 1970s, and instead, it is taking new forms under regulatory control.[221]

Resource nationalism policy choices that countries adopt with regard to their petroleum industry should enable the state to leverage its natural resources for

[215] Pauline Jones Luong and Erika Weinthal (n 46) 50-54.
[216] Paul Stevens n 19.
[217] See Ekim Arbatli n 6.
[218] A.F.M Maniruzzaman, 'The Issue Of Resource Nationalism: Risk Engineering And Dispute Management In The Oil And Gas Industry' (2009) 5 Texas Journal of Oil, Gas, and Energy Law 79.
[219] Pete Stark, 'The Winds Of Change: Resource Nationalism Shifts The Balance Of Power To National Oil Companies' (2007) 59 Journal of Petroleum Technology 34
[220] Ibid.
[221] Ekim Arbatli n 6.

development while also engaging in institution building or strengthening.[222] The growing government interventionism in the economy and especially in the petroleum industry of a state has been described as State Capitalism,[223] and this has been observed in some emerging countries.[224] Although this can be a good thing for the state, on the flip side, this government intervention gives rise to a form of crony capitalism which increases the power of those connected with the government, as observed in Argentina.[225] In responding to the pessimist, there is a need to understand that the political natures of state-capitalist governments matter most to the economic and national security implications of modern state capitalism.[226]

It is well known in the global petroleum industry that NOCs control the highest number of reserves, this denotes that governments and not IOCs or private companies own the world's largest petroleum companies and control these reserves.[227] Bremmer remarked that the people who run the NOCs usually have very close ties to the people that govern the country, and this is one key feature of state capitalism.[228] He also put forward four principal actors in state capitalism: national oil corporations, state-owned enterprises, privately owned national champions, and sovereign wealth funds (SWFs).[229] For this study, the primary attention will be on the National Oil Corporations/Companies, so as not to depart from the central theme of the study.[230] The criticism of these close ties can lead to commercial decisions being left in the hands of political officials. They have little practical knowledge of the commercial, operational aspects of the petroleum industry.[231]

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222 Paul A. Haslam and Pablo Heidrich (n 15) 224.
223 A structure in which the state works as the principal economic actor and the markets are mainly used for political gain is loosely the definition of state capitalism. See, Ian Bremmer, 'State Capitalism Comes Of Age: The End Of The Free Market?' (2009) 88 Foreign Affairs 40.
224 Joaquín Melgarejo Moreno, Ma Inmaculada López Ortiz and Borja Montaño Sanz, 'From Privatisation To Nationalisation: Repsol-YPF, 1999–2012' (2013) 26 Utilities Policy 45.
225 Ibid.
226 Joshua Kurlantzick, *State Capitalism: How The Return Of Statism Is Transforming The World* (Oxford University Press 2015) 246 – 247. See also Ian Bremmer (n 146).
227 Ian Bremmer (n 146); Pete Stark, 'The Winds Of Change: Resource Nationalism Shifts The Balance Of Power To National Oil Companies' (2007) 59 Journal of Petroleum Technology 34.
228 See Ian Bremmer n 149. See also Ian Bremmer n 146.
229 Ibid.
230 Ibid.
231 Ian Bremmer n 149.

Important to remember that the oil produced for the international market was progressively brought under state control around the 1970s and early 1980s which led to the loss of control of many deals by the IOCs with oil-exporting governments.[232] This led to the rise of NOCs, which made NOCs a vital institution and agent of the state in resource development.[233] Preachers and promoters of economic liberalization are still sceptical about the state control of petroleum resources, and yet following the history of the petroleum industry one can see that when it was in the hands of the IOCs, it was a monopoly. These companies controlled the hydrocarbons in the countries that were resource-rich, and these states had nothing to show for it.[234] As it is well known, today, over 70 per cent of global oil reserves and control are owned and controlled by countries and their NOCs.[235]

State control of its petroleum resources can be measured by the share of the state's NOC in the overall national production of petroleum.[236] The petroleum industry has undergone different power structures, in the 1970s and early 1980s the industry was brought under state control and the late 1980s and 1990s the industry saw a reverse in the control of the oil and gas industry.[237] The critical discussions of the rationale for state ownership were gaining ground amongst policymakers around the world.[238] The British government sold off its large shares in BP, and that was viewed as a bold step into privatization in support of the liberalization of the oil and gas industry. However, the movement into liberalisation by developing countries was primarily inspired by the International Monetary Fund (IMF) with the promotion of its Stabilisation Programmes.[239] After 20 years, the IOCs started playing a dominant role in the global oil and gas industry.[240]

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232 Vlado Vivoda, Rise of State-firm Bargaining in the 2000s in Paul Alexander Haslam and Pablo Heidrich (n 15) 53-56. See also Vlado Vivoda n 11.
233 Misheelt Ganbold and Saleem H. Ali n 9.
234 Bianca Sarbu (n 164) 1 – 4.
235 Bianca Sarbu (n 164) 1 – 4 and James Bamberg (n 20) 449. See also Paul Stevens and others (n 36) 5.
236 Cemre Nur ÖZTÜRK (n 197). See also, Bianca Sarbu (n 164) 1 – 4.
237 Coby van der Linde, *The State and The International Oil Market* (Kluwer Academic Publishers 2000) 3 – 8.
238 See Anzhela Knyazeva, Diana Knyazeva and Joseph E. Stiglitz n 169.
239 Ibid.
240 Ibid.

NOCs, as a tool to control the petroleum resources of a resource-rich country, has been the preferred means. However, one might argue that the use of NOCs cannot be effective without a robust and transparent regulatory framework. In all this evident, state control over its petroleum resources one can still argue that some IOCs in certain petroleum-producing countries exert what can be said is control over the petroleum resource industry of these countries.[241]

Oystein stated that the key to economic and political success in managing petroleum resources in the petroleum industry is control.[242] He further stated that direct state participation in the petroleum industry would assist the state in securing its national interests better than leaving it to free-market forces and in the hands of IOCs (private sector).[243] For example, Brazil adopted a combination of select market liberalisation policies and some statist policies for the globalization strategy of its petroleum industry.[244]

In determining the degree of state control, some factors have to be considered: Firstly, in developing countries the leaders and executives prefer to engage IOCs in the extraction of its natural resources, thus bringing foreign investment into the country which leads to less state control in the upstream sector; secondly, the inability of the state's NOC to be able to carry out exploration and production of petroleum by its means, shows the lack of technical capabilities, which translates into less state control of the upstream sector of the petroleum industry; thirdly, it has been observed over the periods of high oil prices that state leaders exercise more control because higher oil prices lead to massive windfalls; fourthly, more

[241] Bianca Sarbu (n 164) 10.

[242] Winston Churchill's engagement of the UK government in the drive to secure Persian's (Iran) oil for the Royal Navy in 1914, made control of oil through direct government intervention as important thus the need to establish an NOC.

See Oystein Noreng, 'National Oil Companies and Their Government Owners: The Politics of Interaction and Control' (1994) 19 The Journal of Energy and Development 197 – 226; Valérie Marcel and John V Mitchell (n 21) 14 – 15.

[243] Oystein Noreng (n 159). See also Jeffrey D. Wilson (n 46); Paul Domjam and Matt Stone n 19; A.F.M Maniruzzaman n 216.

Partial privatisation was identified as a possible way in which government can still maintain control over the petroleum industry. See Zhaohua Li and Takeshi Yamada n 168.

[244] Jewellord Nem Singh and Eliza Massi, Resource Nationalism and Brazil's post-neoliberal strategy in Paul Alexander Haslam and Pablo Heidrich (n 15) 158 – 170.

state control would be expected if the level of dependency by a state on petroleum revenues is as their primary source of income.[245]

The question that arises is how much control over the oil and gas industry can a NOC from a developing nation exert on an industry in which it lacks a high level of technical capability? Following that, can a developing nation that is reliant on Foreign Direct Investment from IOCs into its oil and gas industry exert a high level of control over its resources?

Nationalisation from a positive angle, in many ways, was a huge step forward for oil-producing countries in gaining greater control over their natural resources.[246] These all led to these states capturing a greater share of the profits from their petroleum resources.[247] For example, nationalisation under President Morales can be argued to have given Bolivia back control over its natural resources. For instance, firms that invested in the natural gas of Bolivia were able to claim the resource as it is extracted from the ground. However, after the nationalisation that brought some legal changes, this gave the state control of natural gas until it reached its point of sale.[248] In Bolivia's case although nationalisation gave back control of the natural resources to the state, it did not bring with it the radical socio-economic change due to the path-dependent trajectories of the policies, contracts, and socio-material constraints that surround the extraction, transport and use of natural gas in Bolivia.[249]

As observed by Kaup, the Bolivian nationalisation case provides a case which includes the possibilities and potential problems that any state might face as they try to gain and exercise greater control over their natural resources development path in an increasingly global petroleum economy.[250] Coby commented that one

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[245] Cemre Nur Öztürk (n 197). See also Tim Wegenast and Gerald Schneider n 198 and Bernard Mommer (n 16) 134-140.

[246] Michael Lewin Ross, *The Oil Curse* (Princeton University Press 2013) 8.

[247] Nationalization helped the revenue of oil-rich states to grow dramatically, this gave the governments outstanding windfalls. As a result, these oil-rich governments grew richer and more powerful. In contrast, the average citizens of these oil-rich states often did not benefit from their resources. See Ibid., 8.

[248] Brent Z. Kaup n 98.

[249] Kaup contended that this situation was due to five main factors: existing contracts of sale, a set distribution of taxes from hydrocarbon rents, a general lack of industry capacity in YPFB the state NOC and the government, a lack of hydrocarbon exploration, and previously constructed transport infrastructure. Arguably, this same scenario would not be far from that of Nigerian petroleum industry. Brent Z. Kaup n 98.

[250] Brent Z. Kaup n 98.

of the novelties in the petroleum industry in the 1970s was the cartel power formed by the oil-producing governments from the developing countries.[251] This observation goes to show that no matter how it is recounted, the importance of petroleum-rich developing states cannot be underestimated. As reserves were nationalised, this shifted the power structure in the global petroleum industry, which was dominated by IOCs. The ownership and control structure moved from the IOCs to NOCs or the governments where these petroleum resources were found. This then led to some attention being paid to the petroleum market policies and regulations of these governments.[252]

The state ownership structure has always been criticised, and this was brought to light in the 1980s when the weakness of the state monitoring and regulating the activities of the petroleum industry was brought to the fore.[253] There was some argument that these governments regulated the industry through OPEC so instead of getting their national policy right, so much effort was put into getting OPEC policies right.[254] Most arguments against the nationalisation of the 1970s mainly came from consuming countries who were anxious about the steady supply of petroleum. However, this action by resource-rich developing states is no different from the ones taken by the United Kingdom and Norway in playing a dominant role in the development of petroleum resources in the North Sea.[255]

A country's general economic development strategy determines the ownership structure employed by the state to manage its petroleum resources.[256] Different approaches have been employed by states rich in natural resources to assert their ownership. In a resource-rich state where the natural resource revenue represents a large portion of the economy, then the ownership of these natural resources is of significant importance to the country.[257] Arguably, the present-day forms of resource ownership by the state are embedded in the 1970s nationalisation that

[251] Coby van der Linde (n 237) 3 – 8.
[252] See Coby van der Linde (n 237) 3 – 8.
[253] Ibid.
[254] Ibid.
[255] Ibid.
[256] Pauline Jones Jones and Erika Weinthal (n 46) 315.
[257] See Nicholas Haysom and Sean Kane (n 160); Silvana Tordo, Brandon S Tracy and Noora Arfaa (n 155) 28.

took place in the global petroleum industry, which in turn changed the ownership structures, evidenced by the establishment of NOCs taking over from the IOCs.[258]

In modified support for the importance of institutions to a petroleum-rich state, Khanna asserted that regardless of the conditions of institutions in a petroleum-rich state, the state can avoid the resource curse, by adopting private ownership of its petroleum resources. In contrast, the states with already good institutions can perform better by adopting state ownership and control.[259]

An essential characteristic of national sovereignty and political decision-making is the state’s direct control over its natural resources.[260] In order to affirm state ownership over natural resources, some of the petroleum-producing states changed their constitutions, or petroleum laws. In contrast, others relied on using the contracts they enter into with the IOCs to affirm their ownership through the contract terms.[261] In reality, was that enough effort from the state in affirming its control over its natural resources? To emphasise this point, Luong and Weinthal stated that a state might own its petroleum resources but not necessarily have control over the petroleum resources.[262] However, that is the situation in most petroleum developing countries which are rich in petroleum resources. As it is understood that the state exerts a level of control of its petroleum industry, the states NOC has to be involved in the E&P of the petroleum sector as an operator, especially in the state’s major petroleum field.

4.7 Conclusion

This chapter took a stand, that resource nationalism can have a positive outlook for the state, and not always be viewed as an anti-Western strategy, by a state to claim ownership, and gain control over their petroleum resources. This can be a good strategy when done for the greater good of the petroleum-rich state.

[258] Gavin Lee Kretzschmar and Liliya Sharifzyanova, 'Resource Nationalism - Limits On FDI' [2009] SSRN Electronic Journal.
[259] Arpita Asha Khanna, 'Revisiting The Oil Curse: Does Ownership Matter?' (2017) 99 World Development 214.
[260] Christian Wolf, ‘Does Ownership Matter? The Performance and efficiency of State Oil Vs Private Oil (1987 – 2006)’ (2009) 37 Energy Policy 2642.
[261] Coby van der Linde (n 237) 3 – 8.
[262] Pauline Jones Jones and Erika Weinthal (n 46) 9-16.

According to Barry, when thinking about ethics, whether in a national or international context, the well-being of individual human beings is the only thing that fundamentally matters.[263] For instance, the recently proposed nationalisation of Northern Rail in the United Kingdom supports the fact that value creation for the people is usually the main goal of nationalisation, as the nationalisation strategy was resorted to, after numerous complaints and dissatisfaction from many British citizens.[264] Likewise, with the petroleum sector, nationalising it should not be viewed as a cynical strategy by the state government, as long as value is created for the people. In like manner, Wegenast et al. in their empirical study claimed that in the presence of sound economic and political institutions, a NOC could pioneer the states' economic growth and development.[265] However it is, how the resource nationalism is carried out that matters. Therefore, if petroleum resource can aid in improving the wellbeing of a people, then care needs to be taken in the manner in which these natural resources are put to use.

Regardless of the drivers of resource nationalism in a state, or the form, the essential factors to consider are its sustainability and the extent of its transformational potential. In other words, will the resource nationalism policies lay the foundation for institution-building, economic development, diversification, and globalised professional NOCs like Equinor? Alternatively, the dislodging of IOCs by the state, when there is a lack of knowledge and capacity development, leads to inefficiency, rent-seeking and locked-in social spending.[266] Further, Bremmer, explained that governments from Europe usually intervene in the market and that European governments have a history of statism[267] combined with social democracy which makes the nationalisation and bailouts more politically pleasant to the public, to maintain popular support from the people.[268]

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[263] See Brian Barry, 'Statism And Nationalism: A Cosmopolitan Critique' (1999) 41 Global Justice 12.
[264] See Tanya Powley and Jim Pickard, 'Northern Rail Franchise To Be Nationalised, Says UK Government' (*Financial Times*, 2020) <https://www.ft.com/content/42a20344-429b-11ea-abea-0c7a29cd66fe> accessed 20 March 2020. See also, Gwyn Topham and Lucy Campbell, 'Northern Rail Franchise To Be Renationalised' (*The Guardian*, 2020) <https://www.theguardian.com/business/2020/jan/29/northern-rail-franchise-to-be-renationalised> accessed 20 March 2020.
[265] Tim Wegenast, Arpita Khanna and Gerald Schneier, 'The Micro-Foundations Of The Resource Curse: Ownership And Local Economic Well-Being In Sub-Saharan Africa' [2018] GSDS Working Paper No. 2 <https://kops.uni-konstanz.de/bitstream/handle/123456789/41571/Wegenast_2-fofaixjy8n8a4.pdf?sequence=3&isAllowed=y> accessed 20 March 2020.
[266] Paul A. Haslam and Pablo Heidrich (n 15) 234.
[267] "State-centred approach" is Statism for short. See Göran Therborn, 'Karl Marx Returning' (1986) 7 International Political Science Review 131.
[268] Ian Bremmer (n 149) and Jonah D Levy in Jonah D Levy (ed) (n 39) 367 – 375.

Today, with the alliances continuing on in the global petroleum industry, one cannot categorically say that the industry will be state-dominated nor that it will move towards a liberalized global free market. That will be fully controlled by private forces instead of the global petroleum industry pointing towards a hybrid energy order in which all kinds of statist, private, and hybrid associations and partnerships of interest mix in competition over resources, but which would remain married to a system of states.[269] Hammerson also commented that as ownership and control can be said to be resource nationalism ideas, therefore the contention models seen in today's global petroleum industry is usually between political statist or resource nationalism against the free-market political model.[270]

NOCs are no longer restricted within their borders. The downstream and upstream internalization of the NOCs in the oil and gas industry while also enjoying a monopoly in their home state has endangered the IOCs activities in the global oil and gas industry.[271]

IOCs usually come with funds, and especially in the eyes of developing countries rich with petroleum resources, they consider the IOCs as a 'necessary evil'.[272] Edwards commented that operatorship and control become the bargaining chip when the payment structures are being negotiated, and this becomes even significant if the NOC has operatorship.[273] With what is going on in the petroleum industry, especially those from a developing country, the need for gaining higher revenue or rents from the exploitation of their petroleum resources, makes the reliance on the IOCs necessary, because that is the only way the government will maintain their rent-seeking ways.

This chapter has attempted to draw on the literature of resource nationalism and its central concept of ownership and control. The chapters go further to contend

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[269] Naná de Graaff n 39.
[270] Marc Hammerson, 'Legal Concepts: Introduction To Oil And Gas As An Asset Class', *Three-day Workshop for National Oil Companies* (Stephenson Harwood LLP 2020).
[271] Many NOCs see themselves as 'hybrids' as a result of their globalisation which sees them perform in the capacity of an IOC and also NOC. See Vlado Vivoda n 11.
[272] Armando Zamora, 'Strategic Implications Of Emerging Market-Oriented Latin American Petroleum Policies' (2014) 3 Energy Strategy Reviews 55-62.
[273] Tony Edwards, 'Prepayment Structures For Nocs', *Three-day Workshop for National Oil Companies* (Stephenson Harwood LLP 2020).

that a state cannot say that they own and control their petroleum resources without full participation in the exploration and production of their petroleum resources, especially the production phase. As reliance on the IOCs full engagement in the upstream sector of the state, while the state takes a back seat of rent collecting, means that the state does not have full control of their natural resource sector. The conceptualising of the ownership and control will come into play in the comparative chapter when the regulation control of natural resources are viewed from a developed and developing resource-rich states.

Thus, the crux of this chapter is that Ownership and Control can be said to mean direct involvement or participation, and entails that the petroleum-rich state, must through its NOC be involved in the development and production of its natural resources before the nation can categorically say that it has control over its natural resources.

CHAPTER FIVE - A CRITICAL EVALUATION OF THE NATURAL RESOURCE CURSE, AND ROLE OF NATIONAL OIL COMPANIES

5.1 Introduction

> The pre-salt is a gift from God. This wealth, if well explored and well administered, can propel great transformations in Brazil, consolidating change of the highest degree for our economy and improvement of the living conditions of our people. But the pre-salt also presents risks and challenges… Poor countries that discovered vast oil, but did not resolve this question, continued to be poor…[1]

These remarks by President Lula da Silva on August 31, 2009, during his speech to the Brazilian National Congress on the regulatory framework for the pre-salt petroleum reserves, expressed awareness of the natural resource curse, and the danger it can cause a petroleum-rich state. Expectedly, when tackling a problem, one identifies the problem, then one goes further to proffer solutions. The question of the resource curse is one that should be addressed by natural resource-rich countries, in particular those that fall into the list of countries plagued by the many ills or failures of the international petroleum industry. It is generally accepted that the 'paradox of plenty' of petroleum resources has plagued many countries, evidenced in developing countries that are rich in petroleum resources.

In every petroleum-rich developing country, the effective management of their petroleum resources should aim at the improvement of the living standards of citizens within its territory. Falling short of that would be viewed by the public as a failure; usually, this is on the part of the government. Public expectations require that natural resource wealth should have a positive effect on a state, even

[1] Jewellord T. Nem Singh, 'Who Owns The Minerals? Repoliticizing Neoliberal Governance In Brazil And Chile' (2012) 28 Journal of Developing Societies 229. See also Doug Gray, 'Lula Gives TV Oil Speech' *The Rio Times* (2009) <https://riotimesonline.com/brazil-news/rio-politics/lula-gives-tv-oil-speech/> accessed 10 January 2019.

estimating by economic principles. However, it all depends on how these natural resources are managed.[2] This will be addressed further in this study.

Recently, many vital surveys and empirical studies have been carried out by several economists and political authors, such as Robert Deacon, Anthony Venables, Jeffrey A. Frankel and Frederick Van Der Ploeg in an endeavour to evaluate and summarise the resource curse literature, as it expands.[3] In the light of the available key literature on resource curse, the well-being of citizens across resource-rich countries has been demonstrated by the high level of disparity between some countries. Countries such as Norway and Brunei are ranked highly. In contrast, some resource-rich countries, including Nigeria, Yemen and Angola, are placed at the lower levels of the index by the United Nations Human Development Index.[4]

According to Humphreys et al., the result of this resource wealth disparity does not only cut across these countries but also countries where the poverty level is extremely high, which leads to the outcome of having poor people in a natural resource-rich country.[5] On the other hand, this idea of the resource curse can be disputed by political and economic analysts, as it all depends on the parameters or specifications used in assessing the state's growth.[6] It can be argued that the

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[2] Daron Acemoglu, Simon H. Johnson and James A. Robinson, 'An African Success Story: Botswana' (2001) Working Paper 01-37 SSRN Electronic Journal 1. See also, Peter Cameron and Michael Stanley, *The Extractive Industries Sourcebook* (World Bank Group 2017) 4-6, and Maria Sarraf and Moortaza Jiwanji, 'Beating The Resource Curse: The Case Of Botswana' (*The World Bank*, 2001) <https://openknowledge.worldbank.org/bitstream/handle/10986/18304/multi0page.pdf?sequence=1> accessed 7 March 2019. See also Anthony J. Venables, 'Using Natural Resources For Development: Why Has It Proven So Difficult?' (2016) 30 Journal of Economic Perspectives 161.

[3] See Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark, 'The Evolution Of The Natural Resource Curse Thesis: A Critical Literature Survey' (2017) 51 Resources Policy 123. See also Robert Deacon, 'The Political Economy Of The Natural Resources Curse: A Survey Of Theory And Evidence' (2011) 7 Foundations and Trends® in Microeconomics 111; Jeffrey A. Frankel, 'The Natural Resource Curse: A Survey' [2010] National Bureau of Economic Research Working Paper No. 15836; Anthony J. Venables n 2; Frederick van der Ploeg, 'Natural Resources: Curse Or Blessing?' (2011) 49 Journal of Economic Literature 366 and Hajime Takatsuka, Dao-Zhi Zeng and Laixun Zhao, 'Resource-Based Cities And The Dutch Disease' (2015) 40 Resource and Energy Economics 57.

[4] See, 'Human Development Reports' (*United Nations Development Programme*, 2018) <http://hdr.undp.org/en/2018-update> accessed 27 April 2019. See Macartan Humphreys, Jeffery D Sachs and Joseph E Stiglitz, *Escaping The Resource Curse* (Colombia University Press 2007) 2. See also Lkhagva Gerelmaa and Koji Kotani, 'Further Investigation Of Natural Resources And Economic Growth: Do Natural Resources Depress Economic Growth?' (2016) 50 Resources Policy 312 and Halvor Mehlum, Karl Moene and Ragnar Torvik, 'Institutions And The Resource Curse' (2006) 116 The Economic Journal 1.

[5] Macartan Humphreys and others (n 4) 2. See also Ragnar Torvik, 'Natural Resources, Rent Seeking And Welfare' (2002) 67 Journal of Development Economics 455.

[6] Sevil Acar, *Curse Of Natural Resources* (Palgrave Macmillan 2017) 159.

government is the curse, as the petroleum resources cannot decide how they are managed. Therefore the blame lies on whoever is in charge of managing these resources.

This research focuses on petroleum resources as the primary natural resource of discussion in this study. This chapter builds on the broader literature on resource curse theories. It will not be engaging in the several hypotheses associated with the resource curse, oil-rentier state theories, and institutions. Instead, it will focus on the critical interrogation of already established literature, data, and variables to be used in the chapter discussion. This chapter will argue the importance of a NOC as one of the institutions of extraction, that can assist a state afflicted by the so-called 'natural resource curse'.

A thorough background examination of the resource curse, oil-rentier state (rent-seeking), and institutions will be carried out to give insight into the thesis discussions, especially in the next chapter (comparative chapter). Theories of the resource curse and rentiers state will be critically analysed, in the narrow confines of the phenomenon in an attempt to establish NOC as the institution supporting the natural resource-rich state to efficiently harness the benefits of its petroleum resources, thus leading to economic development from the exploitation of the petroleum resources.

5.2 Understanding the Complex Nature of the Natural Resource Curse

Badeeb et al. comment on countries blessed with an abundance of petroleum resources, relying heavily on these resources as the main route for development and economic growth has gained some support recently.[7] Although, this reliance on petroleum resources does not always lead to the anticipated growth of the economy, especially in Africa, the Middle East and Latin America, as recently observed by some economists.[8] Accordingly, under these circumstances, the countries are said to be suffering from the resource curse. Auty, on the contrary,

[7] See Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark n 3.
[8] Ibid.

claimed that natural resource-poor countries have been inclined to grow remarkably faster than the ones that are blessed with an abundance of natural resources, and this has been observed since the mid-1970s.[9] Reconciling the influence of the results, abundance, and lack of petroleum resources on an economy would create an intriguing debate. The implications of economic development with and without petroleum resources will emerge.

According to Ross the early 1980's ushered in a group of oil-rich developing nations, where up to the present moment, the average citizen in these countries cannot claim to be benefitting from the countries petroleum resources.[10] This situation has been referred to by many commentators as the 'resource curse'.[11] In articulating the resource curse, Sachs and Werner asserted that the anomaly, whereby a natural resource-poor country's economy performs better than a natural resource-rich country's economy, continues to be the theme of economic history.[12] For example, in the 17th century the Netherlands which were resource-poor, surpassed Spain, notwithstanding the large amount of gold and silver Spain received from their colonies.[13] In the 19th and 20th centuries, natural resource-poor countries like Japan and Switzerland grew ahead of resource-rich countries like Russia.[14] Most remarkably, natural-resource poor recently industrialized economies, like Singapore, Hong Kong and Korea are amongst the economic star performers, while resource-rich countries like Nigeria and Venezuela are struggling economically.[15] The state fails to manage these natural resources in ways that will advance the growth of these economies.[16]

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[9] Richard M. Auty (ed), *Resource Abundance And Economic Development* (Oxford University Press 2004) 1-2. See also Richard M Auty, 'The Political Economy Of Resource-Driven Growth' (2001) 45 European Economic Review 839.

[10] Michael Lewin Ross, *The Oil Curse* (Princeton University Press 2013) 1.

[11] Ibid. As already demonstrated by some studies, resource curse is the negative relationship between economic growth and natural resource abundance. See Lkhagva Gerelmaa and Koji Kotani n 4; Jeffrey D. Sachs and Andrew M. Warner, 'The Curse Of Natural Resources' (2001) 45 European Economic Review 827; Frederick van der Ploeg n 3.

[12] See Jeffery D Sachs and Andrew M. Warner, 'Natural Resource Abundance And Economic Growth' [1995] National Bureau of Economic Research (NBER) Working Paper No. 5398. See also Anne D. Boschini, Jan Pettersson and Jesper Roine, 'Resource Curse Or Not: A Question Of Appropriability' (2007) 109 Scandinavian Journal of Economics 593; Hossein Mahdavy, 'The patterns and problems of economic Development in Rentier States: the case of Iran' in M. A Cook (ed), *Studies In The Economic History Of The Middle East From The Rise Of Islam To The Present Day* (Oxford University Press 1970) 432.

[13] Ibid. See also, Robert Deacon n 3.

[14] Ibid.

[15] Ibid.

[16] Sevil Acar (n 6) 2. See Melina Ey and Meg Sherval, 'Exploring The Minescape: Engaging With The Complexity Of The Extractive Sector' (2016) 48 Area 176.

The oil or petroleum resource curse will be central in this chapter, as this study focused on petroleum resources. The petroleum industry is one of the world's largest industries which makes it pertinent to understand the resource curse in these developing countries who rely heavily on their petroleum resources which assist in fuelling their economies.[17] Dependence and reliance on the petroleum and mineral industries are usually measured by the share of earnings from these natural resources (commodities) in the total export earnings and by the tax revenue generated from these resources as a share of the total fiscal revenue.[18]

According to Ross, the oil curse has been debated over time, with some observers pointing accusing fingers at the Western powers who interfered with the oil-rich country's government, and other observers blaming the IOCs that go into these countries to make huge profits at all cost.[19] Although this may be true, in recent past, some oil-rich states like Iran, Venezuela and Russia have resisted the pressures from the Western states, and ferociously blocked any form of interference from the West. Nevertheless, they still suffer the same resource curse problem as the other accommodating petroleum-rich countries.[20] Accommodating petroleum-rich countries, therefore, implies countries that accept the western powers way of doing things, especially in the petroleum industry.

It is puzzling to observe countries, which are supposedly rich in natural resources, yet still have a high level of poverty present in their various economies. Ross referred to poverty that can be linked to resource export as the Dutch disease and the resource curse, and these terms have been used interchangeably by journalists in capturing the situations in some oil-rich developing countries.[21] Waldner and Smith asserted that rentier state and resource curse theory are strictly related; as the outcomes of these theories are usually conditional on weak

[17] See Degol Hailu and Chinpihoi Kipgen, 'The Extractives Dependence Index (EDI)' (2017) 51 Resource Policy 251. See also Michael Ross (n 10) 3.
[18] Ibid.
[19] Michael Ross (n 10) 4.
[20] Michael Ross (n 10) 4.
[21] Michael Ross (n 10) 48. See Sevil Acar (n 6) 12-13. Also income inequality and curse on educational spending. See Osiris J. Parcero and Elissaios Papyrakis, 'Income Inequality And The Oil Resource Curse' (2016) 45 Resource and Energy Economics 159 and Lara Cockx and Nathalie Francken, 'Natural Resources: A Curse On Education Spending?' (2016) 92 Energy Policy 394.

state institutions.[22] To emphasise, as these countries discover natural resources, especially petroleum in huge quantity within their territories, they begin to perform worse than countries that are not rich in natural resources like them.[23] Some of the poorest and wealthiest countries of the world are composed of countries that are rich in natural resources.[24] For instance, some OPEC member countries experienced this oil curse, as they became poorer in 2005 than they were 30 years earlier; precisely because the Dutch disease aspect of the resource curse plagued these countries.[25]

The argument is that these countries face, political, economic and social challenges, identified as the different features of the resource curse.[26] The resource curse paradox proposes slower economic growth for resource-rich countries, in contrast to resource-poor countries.[27] Debates about this curse, based on the type of natural resource in question, have taken place.[28] The existence of the resource curse phenomenon has been debated, and the supporting evidence shows the widespread presence of the phenomenon.[29] High levels of poverty, poor healthcare and low life expectancy are some of the surprising findings that have been known to be the characteristics of the resource

[22] David Waldner and Benjamin Smith, 'Rentier State and State Transformation', in Stephan Leibfried and others (eds), *The Oxford Handbook Of Transformations Of The State* (Oxford University Press 2015) 714.

[23] Emeka Duruigbo, 'The World Bank, Multinational Oil Corporations, And The Resource Curse In Africa' (2005) 26 University of Penn Journal of International Economics Law <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1207&context=jil> accessed 22 January 2019.

[24] Ragnar Torvik, 'Why Do Some Resource-Abundant Countries Succeed While Others Do Not?' (2009) 25 Oxford Review of Economic Policy 241.

[25] Michael L. Ross, 'Blood Barrels - Why Oil Wealth Fuels Conflict' (2008) 87 Foreign Affairs 2.

[26] Naazneen H. Barma, 'The Rentier State At Work: Comparative Experiences Of The Resource Curse In East Asia And The Pacific' (2014) 1 Asia & the Pacific Policy Studies 257.

[27] Christa N. Brunnschweiler and Erwin H. Bulte, 'The Resource Curse Revisited And Revised: A Tale Of Paradoxes And Red Herrings' (2008) 55 Journal of Environmental Economics and Management 248. See also Indra Overland, 'Introduction: Civil Society, Public Debate and Natural Resource Management' in Indra Øverland (ed), *Public Brainpower: Civil Society and Natural resource Management* (Palgrave Macmillan 2018) 1-2.

[28] Caitlin C. Corrigan, 'Breaking The Resource Curse: Transparency In The Natural Resource Sector And The Extractive Industries Transparency Initiative' (2014) 40 Resources Policy 17. See Anne D. Boschini, Jan Pettersson and Jesper Roine n 11; Jonathan Isham and others, 'The Varieties Of Resource Experience: How Natural Resource Export Structures Affect The Political Economy Of Economic Growth' (2005) 19 The World Bank Economic Review 141; Jann Lay and Toman Omar Mahmoud, 'Bananas, Oil, And Development: Examining The Resource Curse And Its Transmission Channels By Resource Type' (*Econstor.eu*, 2019) <https://www.econstor.eu/handle/10419/3267> accessed 18 April 2019.

[29] Emeka Duruigbo n 22. See also Emma Gilberthorpe and Dinah Rajak, 'The Anthropology Of Extraction: Critical Perspectives On The Resource Curse' (2016) 53 The Journal of Development Studies 186; S. Erdem Aytaç, Michael Mousseau and Ömer Faruk Örsün, 'Why Some Countries Are Immune From The Resource Curse: The Role Of Economic Norms' (2016) 23 Democratization 71 and Andrew Rosser, 'Escaping The Resource Curse' (2006) 11 New Political Economy 557.

curse, especially in an oil-rich developing country.[30] The poor economic performance of resource-rich economies continues to validate the theory of resource curse, which posits that rather than promote economic growth, the abundance of these natural resources does the opposite.[31] There are many explanations and factors in this negative outcome. For example, Dutch disease, rent-seeking, weak institutions and extractivist enclaves[32] are some factors that explain the poor economic performance.[33] Sachs and Warner, in their empirical studies, affirmed the unfavourable effects of natural resource dependency.[34] The resource curse is a solid fact that has been established by some empirical studies.[35] Conversely, natural resources being a blessing to a resource-rich state has also been established.[36] For example, Botswana and Norway are success stories of countries with an abundance of natural resources.

According to Karl the 'petroleum resource curse' can be referred to as the astonishingly adverse outcome of petroleum resources in countries that are reliant

[30] Terry Lynn Karl, 'Understanding the Resource Curse' in Svetlana Tsalik and Anya Schiffrin (eds), *Covering Oil: A Reporter's Guide To Energy And Development* (Open Society Institute 2005) 22; Hirdan Katarina de Medeiros Costa and Edmilson Moutinho dos Santos, 'Institutional Analysis And The "Resource Curse" In Developing Countries' (2013) 63 Energy Policy 788; Carole Nakhle, 'Towards Good Governance Of The Oil And Gas Sector In The MENA' [2017] Economic and Social Commission for Western Asia (ESCWA) <https://www.unescwa.org/sites/www.unescwa.org/files/page_attachments/oilgasgovernance-arab-final-submitted.pdf> accessed 13 March 2019.

[31] Jahangir Amuzegar, *Managing the Oil Wealth: OPEC's Windfalls and Pitfalls* (IB Tauris 1999) 190. See also Lkhagva Gerelmaa and Koji Kotani n 4; Elissaios Papyrakis, 'The Resource Curse - What Have We Learned From Two Decades Of Intensive Research: Introduction To The Special Issue' (2017) 53 The Journal of Development Studies 175; Jahangir Amuzegar, 'Oil Wealth: A Very Mixed Blessing' (1982) 60 Foreign Affairs 814.

[32] See Muriel Côte and Benedikt Korf, 'Making Concessions: Extractive Enclaves, Entangled Capitalism And Regulative Pluralism At The Gold Mining Frontier In Burkina Faso' (2018) 101 World Development 466 and Matthew Himley, 'Extractivist Geographies: Mining And Development In Late-Nineteenth And Early-Twentieth-Century Peru' (2018) 46 Latin American Perspectives 27.

[33] Stefan Peters, 'Beyond Curse and Blessing: Rentier Society in Venezuela' in Bettina Engels and Kristina Dietz (eds), *Contested Extractivism, Society And The State: Struggles Over Mining And Land* (Palgrave Macmillan 2017) 47-48.

[34] Jeffery D Sachs and Andrew M. Warner n 10. See also, Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark n 3 ; Erika Weinthal and Pauline Jones Luong, 'Combating The Resource Curse: An Alternative Solution To Managing Mineral Wealth' (2006) 4 Perspectives on Politics 35.

[35] Jeffrey D. Sachs and Andrew M. Warner n 10; Alan H Gelb, *Oil Windfalls: Blessing Or Curse* (Oxford University Press 1988); Ivar Kolstad, 'The Resource Curse: Which Institutions Matter?' (2009) 16 Applied Economics Letters 439; Pauline Jones Luong and Erika Weinthal, *Oil Is Not A Curse : Ownership Structure And Institutions In Soviet Successor States* (Cambridge University Press 2010) 1-2; Jørgen Juel Andersen and Silje Aslaksen, 'Constitutions And The Resource Curse' (2008) 87 Journal of Development Economics 227; Arpita Asha Khanna, 'Revisiting The Oil Curse: Does Ownership Matter?' (2017) 99 World Development 214; Hirdan Katarina de Medeiros Costa and Edmilson Moutinho dos Santos n 29 and Chong-Sup Kim and Seungho Lee, 'Regime Types, Ideological Leanings, And The Natural Resource Curse' (2017) 29 Constitutional Political Economy 1.

[36] See Frederick van der Ploeg n 3; S. Erdem Aytaç, Michael Mousseau and Ömer Faruk Örsün n 28; Emeka Duruigbo, 'Permanent Sovereignty And Peoples' Ownership Of Natural Resources In International Law' (2006) 38 The George Washington International Law Review 33; Maria Sarraf and Moortaza Jiwanji (n 2).

on these natural resources.[37] According to Obi, rent-seeking, corruption, the Dutch disease, and conflict are all negative consequences of the resource curse.[38] For example, Ross remarked, that embarking on building new capital cities, by the Nigerian and Kazakhstan government rather than providing running water was a wasteful project and that well-governed states with a highly educated population and varied economies like Canada and Norway performed better with their petroleum resources windfall.[39]

Many factors influence the success of these resources in creating value for the people. Factors like corruption, lack of transparency and conflict tend to add to the problems of these petroleum-rich developing countries. To consider all these variables would deviate from the research focus. Nonetheless, these variables have been proven to be important in the discussions of the resource curse as the appraisal of the phenomenon of corruption is substantially onerous.[40] According to Graham and Ovadia, transparency has been proposed to be the leading solution to tackle corruption in the petroleum industry.[41] Corruption comes in different forms—for instance, policy corruption, commercial corruption, administrative corruption and grand corruption.

Corruption has been viewed as the leading cause of the petroleum curse and manifest in the form of rent-seeking.[42] However, there have been some arguments

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[37] Terry Lynn Karl, 'Understanding the Resource Curse' in Svetlana Tsalik and Anya Schiffrin (eds) (n 29) 21-24.

[38] Cyril I. Obi, 'The Petroleum Industry: A Paradox Or (Sp)Oiler Of Development?' (2010) 28 Journal of Contemporary African Studies 443. See also Horatiu A. Rus, 'Corruption, Conflict And The Management Of Natural Resources' (2014) 15 Economics of Governance 355 and Alberto Ades and Rafael Di Tella, 'Rents, Competition, And Corruption' (1999) 89 American Economic Review 982.

[39] Michael L. Ross n 25. See also Steinar Holden, 'Avoiding The Resource Curse The Case Norway' (2013) 63 Energy Policy 870; Inge Amundsen, 'Drowning In Oil: Angola' S Institutions And The "Resource Curse"' (2014) 46 Comparative Politics 169 and Thorvaldur Gylfason, 'Natural Resources, Education, And Economic Development' (2001) 45 European Economic Review 847.

[40] See Paasha Mahdavi, 'Institutions And The "Resource Curse": Evidence From Cases Of Oil-Related Bribery' [2019] Comparative Political Studies 1. See also Rabah Arezki and Markus Brückner, 'Oil Rents, Corruption, And State Stability: Evidence From Panel Data Regressions' (2011) 55 European Economic Review 955.

Also, the **Rafsanjani-Statoil Corruption Case**, See Jonathon Wayne Moses and Bjørn Letnes, *Managing Resource Abundance And Wealth: The Norwegian Experience* (Oxford University Press 2017) 234-237; **Odebrecht Graft,** See Michael Smith, Sabrina Valle and Blake Schmidt, 'No One Has Ever Made A Corruption Machine Like This One : There's Graft, And There's Odebrecht Graft' (*Bloomberg.com*, 2017) <https://www.bloomberg.com/news/features/2017-06-08/no-one-has-ever-made-a-corruption-machine-like-this-one> accessed 27 December 2019.

[41] Emmanuel Graham and Jesse Salah Ovadia, 'Oil Exploration And Production In Sub-Saharan Africa, 1990-Present: Trends And Developments' (2019) 6 The Extractive Industries and Society 593.

[42] Ibid.

that the curse is a political one,[43] then it is a resource curse, as petroleum resources on their own cannot lead to a curse.[44] As these minerals on their own cannot be blamed for the issues of conflict, corruption and rent-seeking, rather the problem lies with the policymakers and the government.[45]

The political resource curse model posits that the abundance of these natural resources affects the resource-rich state's governance negatively.[46] The political resource curse empirical findings in Brollo et al. show the negative impact of a natural resource windfall, thus leading to political corruption and political selection.[47] In like manner, Collier and Venables with some case study evidence suggest that looting, corruption, conflict and accountability are some reasons that the abundance of natural resources creates a high risk of state fragility and jeopardises the quality of governance.[48] Consequently, the importance of good governance when it comes to petroleum resources cannot be over-emphasised, as these resources have high value and are vital in facilitating economic and social development in the state.[49]

The role of the elites and the ruling group of a state play has been highlighted in the analysis of the petroleum resource curse. Concerning the role elites or the ruling groups of a State play, when it comes to the resource curse debate, Victor et al. commented that it is a well-known fact that in most oil-producing countries, oil windfalls are usually distributed among a small group of elites who are close to the government, this occurrence is predominant, in a resource-rich developing country.[50] For example, the patronage system was built by two of the longest-

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43 See Desiree A. Desierto, 'Formal Models Of The Political Resource Curse' (2018) 19 Economics of Governance 225.

44 See Gavin Wright and Jesse Czelusta, 'Why Economies Slow: The Myth Of The Resource Curse' (2004) 47 Challenge 6.

45 Matthias Basedau and Jann Lay, 'Resource Curse Or Rentier Peace? The Ambiguous Effects Of Oil Wealth And Oil Dependence On Violent Conflict' (2009) 46 Journal of Peace Research 757.

46 See Fernanda Brollo and others, 'The Political Resource Curse' (2013) 103 American Economic Review 1759. See also Desiree A. Desierto n 43.

47 Ibid.

48 Paul Collier and Anthony J. Venables, 'Natural Resources And State Fragility' [2010] European University Institute Working Paper 36 <https://cadmus.eui.eu/bitstream/handle/1814/13860/RSCAS_2010_36.pdf?sequence=1&isAllowed=y> accessed 3 March 2020.

49 Ibid.

50 David G Victor, David R Hults and Mark Thurber, *Oil and Governance* (Cambridge University Press 2014) 22. See Coby van der Linde, *The State and The International Oil Market* (Kluwer Academic Publishers 2000) 88. See also Arpita Asha Khanna (n 29); Ivar Kolstad and Arne Wiig, 'It's The Rents, Stupid! The Political Economy Of

serving presidents of petroleum-rich countries in Africa, President Obiang of Equatorial Guinea and President Dos Santos of Angola.[51] This patronage system was made possible because they had access to money from the country's petroleum resources.[52] The rentier state theory established the roles played by the IOCs in providing rent income from oil which contributed to the setting up of the elite social class (ruling class) and also kept sustaining them.[53]

The economic growth of a petroleum-rich state is one this study pursues, albeit through the state's NOC. Thus, it carefully and sceptically aligns with the above assertion, with the undeniable evidence of corruption, and the mismanagement of petroleum resource revenues.[54] As the abundance of natural resources has been linked to the resource curse, in like manner so has corruption.[55] In assessing economic growth, Amuzegar asserted that the nature of the political system, or regime type, and quality of governance have been viewed by some theses as an essential factor.[56] From authoritarian governments and economic performance to democratic governments supported by free-market ideologies are all in close connection for raising living standards and the connection between the effectiveness of a bureaucracy in leading a country out of poverty.[57] According to

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The Resource Curse' (2009) 37 Energy Policy 5317; Jesse Salah Ovadia, 'The Making Of Oil-Backed Indigenous Capitalism In Nigeria' (2013) 18 New Political Economy 258.

51 See Nitya Singh, 'Nigeria's Elusive Quest For Democracy: Multinational Corporations And Sustenance Of Authoritarianism' (2011) 10 African and Asian Studies 209

52 See Ivar Kolstad and Abel Kinyondo, 'Alternatives To Local Content Requirements In Resource-Rich Countries' (2016) 45 Oxford Development Studies 406

53 See, Thomas C. Heller, 'African Transitions And The Resource Curse: An Alternative Perspective' (2006) 26 Economic Affairs 24.

54 For example see: 'Nigeria Loses Billions Of Dollars To Prolonged Bid Rounds' (*The Nation Newspaper*, 2019) <https://thenationonlineng.net/nigeria-loses-billions-of-dollars-to-prolonged-bid-rounds/> accessed 29 April 2019; 'Nigeria Loses $6Bn From 'Corrupt' Oil Deal' (*BBC News*, 2018) <https://www.bbc.co.uk/news/business-46336733> accessed 29 April 2019; 'Nigeria Loses $6Bn From 'Corrupt' Oil Deal Linked To Fraud' (*The Star*, 2018) <https://www.the-star.co.ke/news/2018-11-26-nigeria-loses-6bn-from-corrupt-oil-deal-linked-to-fraud/> accessed 29 April 2019 and 'Nigeria: Kachikwu Acknowledges Falana's Letter, Silent On Lawyer's Query Over $60Bn Oil Revenue Loss' (*allAfrica.com*, 2019) <https://allafrica.com/stories/201904150024.html> accessed 29 April 2019.

55 Sambit Bhattacharyya and Roland Hodler, 'Natural Resources, Democracy And Corruption' (2010) 54 European Economic Review 608. See also Rabah Arezki and Markus Brückner n 39, and Will Fitzgibbon, 'Secret Offshore Deals Deprive Africa Of Billions In Natural Resource Dollars - ICIJ' (*ICIJ.org*, 2016) <https://www.icij.org/investigations/panama-papers/20160725-natural-resource-africa-offshore/> accessed 27 December 2019.

56 See Jahangir Amuzegar (n 30) 194. See also Alan H Gelb (n 34) 138-140; Christian Houle, 'A Two-Step Theory And Test Of The Oil Curse: The Conditional Effect Of Oil On Democratization' (2018) 25 Democratization 404; Michael Ross, 'Is Democracy Good For The Poor?' (2006) 50 American Journal of Political Science 860 and Stephen Haber and Victor Menaldo, 'Do Natural Resources Fuel Authoritarianism? A Reappraisal Of The Resource Curse' (2011) 105 American Political Science Review 1.

57 Ibid.

Besley et al., political competition usually leads to the adoption of policies that would encourage economic growth, while the lack of political competition will hamper economic growth.[58] They further claimed, that just as in economics monopoly is never a good thing, and market competition between companies, raises consumer welfare.[59] In like manner, as having different political parties competing, rather than having one dominant ruling party, is observed in some democratic states.

Although the existence of this curse has been shown, yet there has been a level of bias resulting from some other unobserved growth restraint that has resulted in the presence of the resource curse.[60] In the context of a resource-rich developing country, for the resource curse to be understood, certain levels of analysis should be brought to bear.[61] Likewise, Orihuela argued that for a more distinct explanation of the resource curse, the political economy viewpoint could play a part, thus helping to fill the gap.[62] For instance, Nigeria, as a natural resource-rich developing country, has been synonymous in many studies as an example when the 'resource curse' theory is mentioned.[63] Many studies tend to focus on the topic of high corruption, authoritarian regimes, poor governance and low-quality institutions.[64] These are all important, but some of these studies have come short of explaining why the governments of these developing countries fail to take reformatory measures in rectifying the situations in their petroleum

[58] See Timothy Besley, Torsten Persson and Daniel M. Sturm, 'Political Competition, Policy And Growth: Theory And Evidence From The US' (2010) 77 Review of Economic Studies 1329.
[59] Ibid.
[60] Jeffrey D. Sachs and Andrew M. Warner n 10. See also Brock Smith, 'The Resource Curse Exorcised: Evidence From A Panel Of Countries' (2015) 116 Journal of Development Economics 57.
[61] Godwin Onuoha, 'A 'Rising Africa' In A Resource-Rich Context: Change, Continuity And Implications For Development' (2015) 64 Current Sociology 277.
[62] José Carlos Oriheula, 'Institutions And Place: Bringing Context Back Into The Study Of The Resource Curse' (2017) 14 Journal of Institutional Economics 157.
[63] Along with countries like Venezuela and Angola. See Indra Overland, 'Variations on Public Brainpower: Findings from Country Case Studies of Oil and Gas Producing Countries' in Indra Øverland (ed) (n 26) 371-377. See also Jakob Svensson, 'Foreign Aid And Rent-Seeking' (2000) 51 Journal of International Economics 437 and Frederick van der Ploeg, 'Fossil Fuel Producers Under Threat' (2016) 32 Oxford Review of Economic Policy 206.
[64] Gilles Carbonnier and Fritz Brugger in Andreas Goldthau, *The Handbook of Global Energy Policy* (John Wiley & Sons Inc 2013) 72. See also Uwafiokun Idemudia, 'The Resource Curse And The Decentralization Of Oil Revenue: The Case Of Nigeria' (2012) 35 Journal of Cleaner Production 183; Grace M. Brown, 'Globalisation In Nigeria's Oil And Gas Sectors, 1956-2011: An Analysis' (2013) 13 IOSR Journal of Business and Management 70; J. Andrew Grant, W. R Nadège Compaoré and Matthew I Mitchell, *New Approaches To The Governance Of Natural Resources* (Palgrave Macmillan 2015) 7.

industries.[65] For a net exporter of commercial energy, Africa's energy circumstances are confusing, in the sense that, the continent produces about 8% of the world's commercial energy.

In comparison, it only consumes 3% of the global commercial energy, and there seems to be a glaring hindrance in its access to energy, that will drive economic growth and reduce poverty in the continent.[66] On the contrary, some countries have used their natural resources to achieve economic development.[67] For example, Norway transformed its economy that was one of the poorest in Europe in the 1900s to one of the richest by effective utilization of its resources.[68] It is also important to note that some resource-poor countries have achieved desirable heights in economic growth and social development.[69] The absence of these resources can be argued to have helped these countries to focus on all the aspects of the country's economy, rather than depend on the oil and gas industry for their economic growth.

Diversifying an economy away from petroleum and the use of petroleum funds are some of the remedies advanced by Shaxson to help a developing country escape the resource curse.[70] Social interests and interests of survival have compelled the government of Nigeria to use its NOC as a wide-scale discretionary patronage for diverse bureaucratic, regional, and ethnic interest groups, to the degree that few funds were left for the infrastructure.[71] The inconsistency of the management of the public sector is a result of intense politicisation and control by a small interest group, which highlights out that Nigeria is a typical example of a kleptocratic state.[72]

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[65] See Gilles Carbonnier and Fritz Brugger in Andreas Goldthau (n 64) 65-70, 72. See also, Douglas A. Yates, The Rise and fall of Oil-Rentier States in Africa, in J. Andrew Grant, W. R Nadège Compaoré and Matthew I Mitchell (eds), *New Approaches To The Governance Of Natural Resources* (Palgrave Macmillan 2015) 45.
[66] Ibid.
[67] See Emeka Duruigbo n 22.
[68] Ibid.
[69] Ibid.
[70] See Nicholas Shaxson, 'New Approaches To Volatility: Dealing With The 'Resource Curse' In Sub-Saharan Africa' (2005) 81 International Affairs 311. See also Fakhri Hasanov, 'Dutch Disease And The Azerbaijan Economy' (2013) 46 Communist and Post-Communist Studies 463 and Youmanli Ouoba, 'Natural Resources: Funds And Economic Performance Of Resource-Rich Countries' (2016) 50 Resources Policy 108.
[71] See Steffen Hertog, 'Defying The Resource Curse: Explaining Successful State-Owned Enterprises In Rentier States' (2010) 62 World Politics 261.
[72] Ibid.

There should be a change in fortune for Africa because it is a continent with large quantities of natural resources. Natural resources have been discovered in some Western, Eastern and Central African countries.[73] One may question, how much of these resources have benefited the citizens of these countries, and also the development of Africa as a continent? Correspondingly, in explaining the political-economic perspective of the resource curse, Ayelazuno raised a salient question; how is it possible that amid the abundant natural resource wealth, especially in African countries, there still exists the presence of grinding poverty?[74] Further, Ayelazuno cited Nigeria as an example of an African country where this situation exists.[75] Although recent attempts to remedy the situation has been observed in the adoption of local content policies.

This implementation of national and local content policies in the petroleum industry by some governments has been viewed as an attempt to escape the curse, by ensuring that the average citizen of the country benefits from the exploitation of the petroleum resources.[76] The positive impact of this policy is yet to be seen. To critically investigate the resource curse, economic and political factors will be raised. Badeeb et al. advanced the importance of investigating the natural resource curse and argued that it can be divided into economic and political categories, although they still overlap.[77] The resource curse literature reviews proffer economic and political dimensions to the resource-rich economies and how these resource booms can adversely affect these economies.[78] It is also important to realise that other factors can affect the economy of these states where the abundance of these resources leads to a negative outcome for the economy. Therefore, for this study, the economic and political dimension lines of reasoning will be used in advancing this study's arguments.

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[73] Godwin Onuoha n 60. See Thomas C. Heller n 53 and Jon Phillips, Elena Hailwood and Andrew Brooks, 'Sovereignty, The 'Resource Curse' And The Limits Of Good Governance: A Political Economy Of Oil In Ghana' (2016) 43 Review of African Political Economy 26.
[74] See Jasper Ayelazuno, 'Oil Wealth And The Well-Being Of The Subaltern Classes In Sub-Saharan Africa: A Critical Analysis Of The Resource Curse In Ghana' (2014) 40 Resources Policy 66. See also Jacques Lesourne and William C. Ramsay (eds), *Governance Of Oil In Africa: Unfinished Business* (IFRI 2009).
[75] Ibid.
[76] Godwin Onuoha n 60.
[77] Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark n 3.
[78] Maria Sarraf and Moortaza Jiwanji n 2.

Finally, this section embarks on an analysis of the resource curse and implications of these resources. The abundance of petroleum does not necessarily translate to economic development. Evident attempts have been made by some petroleum-rich states, especially developing ones to mitigate this, especially by the implementation of local content policies. This, therefore, raises the question of the level of practical implementation. These arguments thus emphasise the role the government institutions, especially the states NOC play in achieving success in the exploitation and management of the petroleum resources.

5.3 Political Dimension

In advancing a political explanation of the resource curse, Robinson et al. claimed, that there are two ways in which natural resource revenues can be used; the government in power can either squander the revenue or can use this income from the natural resources as patronage, in making sure it retains power, especially for re-election purposes.[79] They have created a formal model of patronage, where the main aim of the incumbent is to maintain power by choosing policies that will maximise the consumption of natural resources revenue.[80] The unsatisfactory economic outcome connected to the political economy factor is linked to weak institutions and governance.[81]

As argued in the previous chapter, NOCs in such states are usually used as the collector of these rents accruing to the state from the export of these natural resources, thus using the NOC as a cash cow.[82] Therefore, in this section, resource nationalism and the rentier state theory are examined as the political aspects of the resource curse that afflicts the petroleum-rich states.

[79] See James A. Robinson, Ragnar Torvik and Thierry Verdier, 'Political Foundations Of The Resource Curse: A Simplification And A Comment' (2014) 106 Journal of Development Economics 194. See also Nathan M. Jensen and Noel P. Johnston, 'Political Risk, Reputation, And The Resource Curse' (2011) 44 Comparative Political Studies 662; James A. Robinson and Ragnar Torvik, 'White Elephants' (2005) 89 Journal of Public Economics 197 and Peter Cameron and Michael Stanley (n 2) 25.
[80] Ibid. See also, Kiren Aziz Chaudhry, 'Economic Liberalization And The Lineages Of The Rentier State' (1994) 27 Comparative Politics 1.
[81] See Glada Lahn and Paul Stevens, ' The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development' in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 98.
[82] See Nordine Ait-Laoussine and John Gault, 'Nationalization, Privatization And Diversification' [2017] The Journal of World Energy Law & Business 43.

5.3.1 Resource Nationalism and Natural Resource Curse

Following the arguments of the previous chapter (chapter 4), key elements of resource nationalism include ownership and control of petroleum resources which are generally owned by governments in most countries. The drive of any petroleum-rich state to own and control its petroleum resources was argued in chapter 4, as resource nationalism.[83] Ross remarked that when governments in developing oil-rich states, officially, but not, in reality, owned their nations' oil wealth in the 1950s, some of them received only a portion of the available rents.[84] However, observing nationalization from a positive angle, in many ways, it was a huge step forward for oil-producing countries in gaining greater control over their natural resources.[85] These all led to these states capturing a greater share of the profits from their oil resources.[86] Conceivably, nationalisation helped the revenue of the petroleum-rich states to grow dramatically, this gave the governments outstanding windfalls, because the petroleum policies were formulated based on resource nationalism.[87] As a result, these petroleum-rich governments grew more productive and more powerful. In contrast, the average citizen of these petroleum-rich states did not benefit from their resources. This past situation of these Petro-state citizens will be evidenced shortly.

In support of state control, Childs and Hearn commented that increased state control in the natural resource sector could lead to more benefits and fair petroleum wealth distribution to people of the state.[88] According to Ganbold and Ali, in terms of the potential for petroleum wealth distribution across society, resource nationalism can be argued to have a favourable impact.[89]

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[83] See Chapter 4.

[84] Eventually, the wave of nationalisation that engulfed the global oil industry in the 1950s, 1960s and 1970s changed the ownership and control of the oil wealth. The 1960s and 1970s nationalization made it possible for these oil-rich states' government to capture higher share of the oil rents. Expropriation raised some governments share of oil profits from 50 percent in the 1960s to 98 percent by 1974. See Michael Ross (n 10) 37- 41.

[85] Michael Ross (n 10) 8.

[86] See Michael Ross (n 10) 8; Matt Huber, 'Resource Geography II' [2018] Progress in Human Geography 1; John Childs and Julie Hearn, ''New' Nations: Resource-Based Development Imaginaries In Ghana And Ecuador' (2017) 38 Third World Quarterly 844.

[87] Guillaume Fontaine, José Luis Fuentes and Iván Narváez, 'Policy Mixes Against Oil Dependence: Resource Nationalism, Layering And Contradictions In Ecuador's Energy Transition' (2019) 47 Energy Research & Social Science 56

[88] John Childs and Julie Hearn n 86.

[89] Misheelt Ganbold and Saleem H. Ali, 'The Peril And Promise Of Resource Nationalism: A Case Analysis Of Mongolia's Mining Development' (2017) 53 Resources Policy 1.

Therefore, instead of the majority of the revenue share from petroleum resources going to the IOCs, it goes to the government, as that is what resource nationalism in practice means.[90] What then have these governments done with the petroleum windfalls? There should be progress in these economies, but in reality, it is not usually the outcome. Therefore, the resource curse is still prevalent in these countries even after they have nationalised their petroleum industry, and adopted strong economic policies that ensure that they obtain more rents from the IOCs, thereby reducing the amount of capital that has been sent back to the countries of these IOCs.[91]

Some critical components of the petroleum curse point to the nationalisations of the 1960s and 1970s, which led to privatisation advocates to claim that state-owned enterprises are economically incapable of running the oil and gas industry.[92] Some commentators argued that although the governments are vast, secretive and unaccountable, privatisation will only replace them with large private, secretive and uncountable companies.[93] For instance, in some countries, especially in the Middle East with strong NOCs that manage their facilities, talk of privatisation would mean that they would move to a more tax-based revenue.[94] Full or partial privatization could boost government accountability in some cases as this will make it harder for the oil revenues to be concealed.[95] It is debatable whether public listing on the stock exchange would make these NOCs more transparent, even if the NOC is one where the government is the majority shareholder in a partially privatised company, such as Norway and Malaysia.[96] Stabilisation funds are usually set up by governments to hold surplus revenues when prices are high, in anticipation of draw down when the prices fall. For a stabilisation fund to succeed three components are needed: a process put in place

[90] Paul Segal, 'How To Spend It: Resource Wealth And The Distribution Of Resource Rents' (2012) 51 Energy Policy 340.
[91] Emeka Duruigbo n 22. See also, Matt Huber n 86; John J. Quinn and Ryan T. Conway, 'The Mineral Resource Curse In Africa: What Role Does Majority State Ownership Play?' [2008] The Centre for the Study of African Economies (CSAE) <https://www.researchgate.net/profile/John_Quinn14/publication/237637901_The_Mineral_Resource_Curse_in_Africa_What_Role_Does_Majority_State_Ownership_Play/links/00b4953b40b553e65a000000/The-Mineral-Resource-Curse-in-Africa-What-Role-Does-Majority-State-Ownership-Play.pdf> accessed 30 January 2019.
[92] See Michael Ross (n 10) 240-242.
[93] See Frederick van der Ploeg n 63.
[94] Ibid.
[95] Ibid.
[96] Ibid.

to bring down government expenditure when prices are high; a method to increase government expenditure when prices are low; and a procedure to link the two, so that money removed from the budget during the economic boom period is equivalent to the money added to the budget during the bust period.[97]

The excessive borrowing on the international market, white elephant projects and subsidies are some of the economic policies adopted by these petroleum resource-rich countries were unsustainable.[98] For example, according to Obi, despite the state ownership legal structure in the Nigerian natural resource development sector, the country still lacks control of these natural resources, especially the petroleum resources.[99] The argument is that the upstream petroleum sector is still dominated by IOCs, while the state-owned company NNPC and its subsidiary NPDC, play a secondary or minor role in the actual production of the major fields of the country.

5.3.2 The Oil-Rentier State Theory

Yates succinctly captured the situation of petroleum production and revenue generation in a petroleum-producing state in the following statement:

> when international organizations account for oil revenues as national income, rather than as a 'drawdown of the capital value of the finite stock of a depletable resources', the impression of real per-capita national wealth is confounded. Wealth is not being created, it is being consumed, and at conspicuous rates.[100]

IOCs account for the majority of oil revenues accrued by a petroleum-rich state, especially in a developing state. The steady inflow of foreign revenue can cause over-reliance on rents from petroleum resources, as such will make these states oil-rentier ones. These petroleum resources which are being exported are

[97] Ibid.
[98] Frederick van der Ploeg n 63.
[99] Cyril I. Obi n 37.
[100] Douglas A. Yates, *The Rentier State In Africa: Oil Rent Dependency And Neocolonialism In The Republic Of Gabon* (Africa World Press 1996) 32.

exhaustible.[101] This begs the question, are rentier states economies sustainable? H.E. Hamid Karzai,[102] emphasising the importance of not being a rentier state forever, and attempting to achieve this, says much about over-reliance on external rents as a means of economic growth and sustainability.[103]

The case for petroleum rents has been made by some economists and academics, like Smith, Kolstad and Kinyondo who argued that oil rents in a weak state could create long-lived but shallow stability.[104] They suggested that the states used their windfall revenues to build state institutions and political organisations that could help the country during the low oil price period.[105] These assertions may be true of some states, but some developing states still do not have strong institutions. What criteria can be used to define a weak state? According to Beblawi, no economy can be said to be free of rents, but one that is a rentier state is an economy that relies mainly on rents,[106] as opposed to a state that generates revenue through taxation. Mahdavy's work on the Arab world rentier states claimed that states that accrue substantial external rents regularly describe a rentier state in its broadest sense.[107] In a developing oil-rentier state, the revenues of these resources are usually concentrated in the hands of the ruling elite, or political power groups, thus creating what Yates termed 'the rentier class'.[108] As oil revenues continue to increase and become the government's

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[101] Andrew Kirkpatrick, 'After The Resource Curse: The Unexplored Possibility Of The Post-Rentier State' (2018) 19 International Studies Perspectives 188. See also Joseph Stiglitz, 'Growth With Exhaustible Natural Resources: Efficient And Optimal Growth Paths' (1974) 41 The Review of Economic Studies 123.
[102] The former president of the Islamic Republic of Afghanistan (2004-2014).
[103] See Hamid Karzai, 'JISB Interview: 'We Don't Want To Be A Rentier State Forever'' (2018) 12 Journal of Intervention and Statebuilding 442.
[104] Benjamin Smith, 'Oil Wealth And Regime Survival In The Developing World, 1960-1999' (2004) 48 American Journal of Political Science 232; Ivar Kolstad and Abel Kinyondo n 52 ; Hirdan Katarina de Medeiros Costa and Edmilson Moutinho dos Santos n 29.
[105] Ibid.
[106] Furthermore, Beblawi identified the main features of a rentier economy as follows: rents become the primary target for the economy. The majority of these rents would be externally generated, and only a fraction of the economy generate these rents, i.e. engagement in the generation of these rents are carried out by a few, for example the ruling class or elites of the society. Finally, the government in the rentier-state is the main receiver of the external rent, on behalf of the state. See Hazem Beblawi, 'The Rentier State in the Arab World' in Giacomo Luciani (ed), *The Arab State* (Routledge 2016) 87-88. See also Douglas A. Yates (n 100) 14.
[107] Hossein Mahdavy, 'The patterns and problems of economic Development in Rentier States: the case of Iran' in M. A Cook (ed) (n 11) 428.
The inflow of vast amounts of rents, in form of foreign exchange, describes the system in which a rentier economies are premised on. See Douglas A. Yates (n 100) 11, 23.
[108] Yates further stated that:

> The rentier class does not need to create a national mythos giving credibility to the notion that it represents the common good. Because it spends and does not tax, the rentier class is liberated from the reliance on legitimation by its society and thus suffers no serious challenge to its power.

primary source of revenue, this steady stream of revenue from oil turns the state and the majority of its internal activities into a distributive one.[109]

Consequently, the distribution of rents when not properly or equally allocated can result in social conflict when a section of the country feels left out or believes the allocation to be unjust, it could resort to violence.[110] This has been one of the reasons for the crisis that has been going on in Nigeria's Niger Delta region.[111] Crude oil abundance and the revenue opportunities, especially in a rentier state, fuelled the motives for rebels to engage in armed conflict.[112] Similarly, Wegenast and Schneider suggested that whoever controls the petroleum resources, whether privately, publicly, internationally or domestically determines the possibility of the extraction of the resource leading to conflict and violence.[113] Although these links are not yet fully understood, the control by IOCs could elicit violence and conflict from the people of that region as seen in the Niger Delta, but the primary campaign that has disrupted petroleum resource production has been the claims of ownership of the petroleum resources by the region.

Losman stated that contrary to the original use of the word 'rent' to describe returns to landowners, today the expression 'oil-rentier state' describes a state that accumulates most of its revenue from the exports of its petroleum resource.[114] These oil-rentier states lack a productive outlook, as the revenues

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> Democracy is not a problem for the rentier state, because, to turn a phrase, there can be *"no representation without taxation".*

See Douglas A. Yates (n 100) 35. See also Timothy Besley and Torsten Persson, 'Why Do Developing Countries Tax So Little?' (2014) 28 Journal of Economic Perspectives 99; S. Erdem Aytaç, Michael Mousseau and Ömer Faruk Örsün n 28.

[109] Benjamin Smith n 104.

[110] Benjamin Smith n 104. See Cyril Obi, 'Oil And Conflict In Nigeria's Niger Delta Region: Between The Barrel And The Trigger' (2014) 1 The Extractive Industries and Society 147. See also Eiji Yamamura, 'Social Conflict And Redistributive Preferences Among Rich And Poor: Testing The Hypothesis Of Acemoglu And Robinson' (2016) 19 Journal of Applied Economics 41; Silje Aslaksen and Ragnar Torvik, 'A Theory Of Civil Conflict And Democracy In Rentier States' (2006) 108 Scandinavian Journal of Economics 571; Anil Markandya and Alina Averchenkova, 'Reforming a Large Resource-Abundant Transition Economy: Russia' in Richard M. Auty (ed.), *Resource Abundance And Economic Development* (Oxford University Press 2004) 34.

[111] See Cyril Obi n 109. See also Michael Watts, 'Resource Curse? Governmentality, Oil And Power In The Niger Delta, Nigeria' (2004) 9 Geopolitics 50 and Miles Larmer and Vito Laterza, 'Contested Wealth: Social And Political Mobilisation In Extractive Communities In Africa' (2017) 4 The Extractive Industries and Society 701.

[112] Ibid.

[113] Tim Wegenast and Gerald Schneider, 'Ownership Matters: Natural Resources Property Rights And Social Conflict In Sub-Saharan Africa' (2017) 61 Political Geography 110. See also, Annegret Mähler, 'Oil In Venezuela: Triggering Conflicts Or Ensuring Stability? A Historical Comparative Analysis' (2011) 39 Politics & Policy 583.

[114] Donald L. Losman, 'The Rentier State And National Oil Companies: An Economic And Political Perspective' (2010) 64 The Middle East Journal 427. See also Lucas I. González, 'Oil Rents And Patronage: The Fiscal Effects

from the petroleum resources largely contribute to the country's gross domestic product as witnessed in the case of Nigeria.[115] For example, Singh remarked that the Nigerian government relies heavily on the rentier oil revenue supplied by the IOCs, thus helping in sustaining the elite groups of the country.[116] Rent-seeking activities have been observed in developing economies with significant evidence.[117] For example, Hansen et al. claimed that in Tanzania, Mozambique and Uganda, it seems that the local content policies have been politicised, and somewhat gear towards the pursuit of power by the elite and maintaining this power.[118] As a result, Africa's growth is limited, as these ruling group continue to assign profitable but unproductive economic opportunities to their cronies to secure their legitimacy.[119] This scenario can be observed in Nigeria, where the country's elite, ruling group and political parties are focused on enriching themselves, and in the same vein maintain power in the country.

On the other hand, Rutledge claimed that the 'production state' targets have a self-sustaining economic growth, unlike the rentier state that is mainly an oil rent collection, and allocating state.[120] Gunton looked at resource rent positively and claimed that a sector of an economy that can generate substantial rents, especially one beyond the factors of production should be viewed as a significant advantage for that sector.[121] It is acceptable to some extent, but when a petroleum-rich state relies heavily on revenue from the export of its petroleum resources, the outcome

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Of Oil Booms In The Argentine Provinces' (2018) 51 Comparative Politics 101; Emilie Rutledge, 'Oil Rent, The Rentier State/Resource Curse Narrative And The GCC Countries' (2017) 41 OPEC Energy Review 132; Douglas A. Yates, The Rise and fall of Oil-Rentier States in Africa, in J. Andrew Grant, W. R Nadège Compaoré and Matthew I Mitchell (eds) (n 64) 46-48.

[115] Petroleum revenues make up over 70% of the country's GDP. See Kenneth Omeje, 'The Rentier State: Oil-Related Legislation And Conflict In The Niger Delta, Nigeria' (2006) 6 Conflict, Security & Development 321.

[116] Nitya Singh n 51.

[117] Jean-Marie Baland and Patrick Francois, 'Rent-Seeking And Resource Booms' (2000) 61 Journal of Development Economics 527. See also Francesco Caselli and Tom Cunningham, 'Leader Behaviour And The Natural Resource Curse' (2009) 61 Oxford Economic Papers 628.

[118] Michael W. Hansen and others, 'The Economics And Politics Of Local Content In African Extractives: Lessons From Tanzania, Uganda And Mozambique' (2015) 43 Forum for Development Studies 201.

[119] See Tim Kelsall, 'Neo-Patrimonialism, Rent-Seeking And Development: Going With The Grain?' (2012) 17 New Political Economy 677.

[120] Emilie Rutledge n 113.

[121] Gunton stated that natural resource rent can be generated in many ways, and he proffered ways in which natural resource rents can be generated. See Thomas Gunton, 'Natural Resources And Regional Development: An Assessment Of Dependency And Comparative Advantage Paradigms' (2003) 79 Economic Geography 67. Also for a competitive model of rent seeking. See Anne O. Krueger, 'The Political Economy Of The Rent-Seeking Society' (2001) 64 The American Economic Review 291 and for a model of learning by doing (LBD) see Ragnar Torvik, 'Learning By Doing And The Dutch Disease' (2001) 45 European Economic Review 285.

is not usually favourable to the economy of the state, as these external revenues are not generated within the country.

Luciani observed that an abundance of petroleum, high production, and export, gives the state a sense of freedom from raising income internally, thus leading the over-reliance on the petroleum revenue or rents.[122] Equally, the abundance of petroleum resources usually leads to bad policy choices, less dependence on taxation, and weak monitoring of politicians by the citizens.[123] For example, Almaz in testing the rentier state theory claimed that Azerbaijan could be categorised as a rentier state, and the revenues generated from the natural resource export hamper democracy.[124]

Similarly, Houle suggested that petroleum exhibits various effects on various levels of the government transition process, and does harm to democracy.[125] Ross contended that these claims that petroleum hampers democracy are both valid and statistically robust and that these detrimental influences of petroleum are not restricted to the Middle East, but also democratic states like Nigeria, Mexico and Malaysia.[126] Conversely, O'Connor et al. argued that the abundance of petroleum resources does not have a negative effect on democratic institutions in the long-run.[127]

The rentier state has been argued to be the causal mechanism for a state performing poorly when blessed with an abundance of natural resources rather

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[122] Giacomo Luciani, 'Allocation vs. Production States: A theoretical Framework' in Giacomo Luciani (ed), *The Arab State* (Routledge 2016) 70-71.
[123] Lars-Erik Borge, Pernille Parmer and Ragnar Torvik, 'Local Natural Resource Curse?' (2015) 131 Journal of Public Economics 101.
[124] Alper Almaz, 'Testing The Rentier State Theory: The Case Of Azerbaijan' (2015) 5 Journal of Global Analysis 59. See also Carlos Gervasoni, 'A Rentier Theory Of Subnational Regimes: Fiscal Federalism, Democracy, And Authoritarianism In The Argentine Provinces' (2010) 62 World Politics 302; Silje Aslaksen, 'Oil And Democracy: More Than A Cross-Country Correlation?' (2010) 47 Journal of Peace Research 421.
[125] Transitional process from authoritarian government to a democratic one. See Christian Houle n 56.
[126] He stated that oil made democratization in these countries difficult. See Michael L. Ross, 'Does Oil Hinder Democracy?' (2001) 53 World Politics 325.
Furthermore, excessive inequality of income might affect the benefits of democracy, and the quality of economic institutions. See Rainer Kotschy and Uwe Sunde, 'Democracy, Inequality, And Institutional Quality' (2017) 91 European Economic Review 209; Jay Ulfelder, 'Natural-Resource Wealth And The Survival Of Autocracy' (2007) 40 Comparative Political Studies 995.
[127] Kelsey J. O'Connor, Luisa R. Blanco and Jeffrey B. Nugent, 'Does Oil Really Curse Democracy? A Long-Run Time-Series Analysis Of 127 Countries' (2018) 57 Resources Policy 264. See also Stephen Haber and Victor Menaldo n 56.

than the resource curse theory.[128] Furthermore, there arise some difficulties in an attempt to systematically investigating the causal path of resource curse, with analysis of the type or form of government in place as these resources are discovered.[129] Contrary to the works of Sachs and Warner, Kolstad and Wiig asserted that the resource curse is not about the abundance of natural resources per se, but about the resource rent.[130] Resource abundance impacts on the real exchange rate, and the cushion these rents give the government somewhat slows down the speed of any process of reforms.[131] Chaudhry argues about the ability of a state to develop sound economic policies. The absence of this leaves the state weak and is directly related to the petroleum rents which it receives, and mars the positive development of active state bureaucracy.[132]

The outcome will then be a state reliant on external rents to achieve economic growth. This leads to a rent collecting mentality. According to Karl, the 'rentier psychology' is caused when revenue from oil resources diminishes the authority of the state, which then creates an opportunity for public authorities and private interests to embark on rent-seeking.[133] Similarly, Yates termed it the 'rentier mentality', and sees it as the distinction between the earned and unearned income from the state's natural resources.[134] Furthermore, Yates stated that for a rentier state the rewards of income and wealth does not come as a result of work, but as a result of chance. As the income from these natural resources are viewed as a free gift of nature.[135] Could it be this mentality that is plaguing Nigeria, or some natural resource-rich developing state that has shown the same results, or is it the outcome of the abundance of natural resources found within the state's territory?

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[128] See S. Erdem Aytaç, Michael Mousseau and Ömer Faruk Örsün n 28. See also Romain Wacziarg, 'The First Law Of Petropolitics' (2012) 79 Economica 641.
[129] Ibid.
[130] Ivar Kolstad and Arne Wiig n 50. See also Jeffery D Sachs and Andrew M. Warner n 10.
[131] Anil Markandya and Alina Averchenkova, 'Reforming a Large Resource-Abundant Transition Economy: Russia' in Richard M. Auty (ed.) (n 109) 33-34.
[132] Kiren Aziz Chaudhry, 'The Price Of Wealth: Business And State In Labor Remittance And Oil Economies' (1989) 43 International Organization 101. See also Michael Ross (n 10) 210.
[133] Michael Ross (n 10) 210. See Terry Lynn Karl, 'Understanding the Resource Curse' in Svetlana Tsalik and Anya Schiffrin (eds) (n 29) 25-26.
[134] See Douglas A. Yates (n 100) 20-21, 23.
[135] Ibid.

Yates claimed that this inflow of rents from the export of these natural resources misleads the rentier state into an optimistic future rise in revenues.[136] Secondly, the elites or the ruling group of this rentier state become satisfied with the conditions. They are content to maintain the status quo, thus ensuring a continuous reliance, and steady inflow of these rents that assist in maintaining their social standing, class and power.[137] Generally, rent-seeking as a strategy for wealth creation is usually rampant in a rentier state where the economic influence and political power are concentrated.[138] According to Lahn and Stevens, these petroleum rents are usually accumulated by the ruling group or the country's elite, and as a result, deters the need for the state's institution building.[139] Consequently, what the scenario mentioned above does, is to hinder the state embarking on entrepreneurship and productivity in their economy; instead, they resort to rent-seeking.[140]

Similarly, Badeeb et al. viewed rent-seeking as a political factor, which they observed as the need for the elite or ruling group to maintain political influence by benefiting from the natural resources.[141] By the same token, Kurt Weyland in support of the theories of a rentier state affirmed that these rents or incomes from natural resources act as a support for the elites and ruling group of the country, especially in South American countries.[142] For instance, Weyland claimed these revenues from natural resource wealth, are usually used by the elites and ruling group to circumvent political risks and for paying off any possible opposition.[143] This was observed in some South American countries, like Chile, Bolivia, Ecuador and Venezuela.[144]

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136 Douglas A. Yates (n 100) 21.

137 Ibid, 21-22. Also, the current arguments about the present state of Moldova's democracy capture this. See Cristina Gherasimov, 'Moldova's Weak Democracy Is A Growing Risk For Europe' (*Chatham House,* 2019) <https://www.chathamhouse.org/expert/comment/moldova-s-weak-democracy-growing-risk-europe?utm_source=Chatham%20House&utm_medium=email&utm_campaign=10325542_Publication%20alert%20Moldova%20and%20MR%20livestream%2026022019&dm_i=1S3M,65B8M,V2CUQR,O6A4O,1#> accessed 22 April 2019.

138 Terry Lynn Karl, 'Understanding the Resource Curse' in Svetlana Tsalik and Anya Schiffrin (eds) (n 29) 25-26.

139 Glada Lahn and Paul Stevens, ' The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development' in Tony Addison and Alan Roe (eds) (n 81) 97.

140 Ibid.

141 Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark n 3.

142 See Kurt Weyland, 'The Rise Of Latin America's Two Lefts: Insights From Rentier State Theory' (2009) 41 Comparative Politics 145.

143 Ibid.

144 Ibid. See also, Thad Dunning, 'Endogenous Oil Rents' (2009) 43 Comparative Political Studies 379.

Waldner and Smith asserted that over-reliance on the revenues from the export of petroleum resources can lead to these outcomes, and could also lead to the government not taxing its citizens, and local economic players, as they are reliant on the rents from the abundant petroleum resources.[145] Besley and Persson postulated that resource rents discourage politicians from investing in the state's bureaucratic capacity, leaving the institutions weak.[146] Kolstad and Wiig contended that natural resources in themselves do not give rise to resource curse but it is the rents from these natural resources that lead a state suffering from the resource curse.[147] For example, Adibe et al. claimed that the Nigerian petroleum industry has a rentier nature, which limits the level of participation of the state or its NOC in the petroleum production process, as the government's primary concern is an inflow of rent from petroleum resources.[148]

The upstream activities of the Nigerian petroleum industry are dominated by the IOCs, thus limiting the state NOC-NNPC to rent collection. Usually, it is expected that the NOC of a state dominates its petroleum industry, particularly the upstream sector, hence ensuring that the state has firm control over its natural resources, especially the OPEC member states. Luong and Weinthal contended that the crucial link between petroleum resource wealth and the many adverse economic and political outcomes attributed to these resources is the cause of weak institutions.[149] Important likewise is the state ownership and control structure.[150] Who owns and controls the development of these resources becomes an important variable to consider. Correspondingly, Luciani's work on allocation vs production states, claimed that the allocation states rely on external petroleum revenue

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[145] David Waldner and Benjamin Smith, Rentier State and State Transformation in Stephan Leibfried and others (eds) (n 21) 720-724. See also Brett Zeuner, 'An Obsolescing Bargain In A Rentier State: Multinationals, Artisanal Miners, And Cobalt In The Democratic Republic Of Congo' (2018) 6 Frontiers in Energy Research 1.
[146] Timothy Besley and Torsten Persson n 107. See also Timothy Besley and Torsten Persson, 'State Capacity, Conflict, And Development' (2010) 78 Econometrica 1. and Michael Ross (n 10) 210.
[147] See Ivar Kolstad and Arne Wiig n 50.
[148] Raymond Adibe, Ejikeme Nwagwu and Okorie Albert, 'Rentierism And Security Privatisation In The Nigerian Petroleum Industry: Assessment Of Oil Pipeline Surveillance And Protection Contracts' (2017) 45 Review of African Political Economy 345. See Douglas A. Yates, The Rise and fall of Oil-Rentier States in Africa, in J. Andrew Grant, W. R Nadège Compaoré and Matthew I Mitchell (eds) (n 64) 57.
[149] Pauline Jones Luong and Erika Weinthal, 'Rethinking The Resource Curse: Ownership Structure, Institutional Capacity, And Domestic Constraints' (2006) 9 Annual Review of Political Science 241.
[150] Ibid. See also, Russia as an example, see William Tompson, 'A Frozen Venezuela? The 'Resource Curse' And Russian Politics' (*ResearchGate*, 2006) <https://www.researchgate.net/profile/William_Tompson/publication/36725559_A_Frozen_Venezuela_The_'Resource_Curse'_and_Russian_Politics/links/54d0a90c0cf20323c218720b.pdf> accessed 23 April 2019.

accrued to the state from the sale of its petroleum, or a state where petroleum revenue makes up more than forty per cent of its GDP.[151] On the other hand, the production state generates revenue internally, thus emphasizing the source of the revenue.[152]

Arguably, developing states, rich in petroleum resources, are usually dependent on the petroleum industry, which is the mainstay of the economy. According to Karl, this shows the problematic connection between economic growth, poverty, bad governance, conflict, and injustice present in this group of petroleum-dependent countries.[153] Karl further argued that petroleum resources itself does not lead to this outcome, but it is the structures and incentives created by petroleum-dependence.[154] These claims point to one thing, which is the negative effect of the abundance of petroleum resources, especially in a developing country. Remarkably, the goal to achieve economic development through these petroleum resources has been a massive struggle for some countries, especially Nigeria.

5.4 Economic Dimension

The economic explanation of the resource curse usually raises the question, whether the abundance of natural resources to a country generally leads to economic development? The reliance on these natural resources as an export commodity for economic growth by a country, especially a developing country has been a source of concern for economists since the 1950s.[155] This section seeks to analyse these concerns which have been labelled the Dutch disease, especially when it concerns petroleum resources.

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[151] Giacomo Luciani, 'Allocation vs. Production States: A theoretical Framework' in Giacomo Luciani (ed) (n 122) 65-84.

[152] Ibid, 80-81.

[153] See Terry Lynn Karl, 'Oil-Led Development: Social, Political, And Economic Consequences' (2004) 4 Encyclopedia of Energy 661. See also Katharina Wick and Erwin H. Bulte, 'Contesting Resources – Rent Seeking, Conflict And The Natural Resource Curse' (2006) 128 Public Choice 457; Alexander James, 'The Resource Curse: A Statistical Mirage?' (2015) 114 Journal of Development Economics 55 and Richard M. Auty, 'Natural Resource Endowment, The State And Development Strategy' (1997) 9 Journal of International Development 651.

[154] Ibid.

[155] Laura Paler (*Revenue Watch Institute*, 2011) <https://resourcegovernance.org/sites/default/files/SubnationalresourcecurseliteratureDRAFT.pdf> accessed 23 April 2019.

5.4.1 The Dutch Disease

The achievement of economic growth and development through petroleum resources is usually deterred when a state is afflicted by the Dutch Disease. This section, therefore, seeks to examine the Dutch disease, and ascertain the presence of the Dutch Disease in a petroleum-rich state, and how these petroleum resources can become a deterrent to an economy, rather than a blessing.

In a bid to understand why a country with an abundance of natural resources will not be doing economically well, the Dutch disease has been argued to affect some countries. Petroleum rich states, especially some from developing countries, usually focus mainly on their petroleum sector, which in turn will lead to some decline in the other sectors of their economy. The discovery of an abundance of petroleum should assist the state progress economically, but more often than not this is not the situation. According to Corden and Neary, the Dutch Disease phenomenon has not been observed in developing countries alone, but also in developed countries.[156] Generally, the booming sector is the extractive one, and the sector placed under pressure is usually the manufacturing sector.[157] The manufacturing sector of the Netherlands economy started performing poorly as a result of the discovery of natural gas in the North Sea.[158] The decline in other established domestic sectors of a country's economy, which is a result of the discovery of natural resources, can be referred to as the "Dutch Disease".[159] Further, the term "Dutch Disease" was coined by the *Economist* on November 26, 1977, following the debate on the impact of natural gas on the Dutch economy.[160]

Many studies have put forward empirical pieces of evidence for Dutch Disease effects.[161] For example, Auty claimed that Russia's dependence on its natural

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[156] W. Max Corden and J. Peter Neary, 'Booming Sector And De-Industrialisation In A Small Open Economy' (1982) 92 The Economic Journal 825.

[157] As observed in Australia, natural gas in Netherlands, or oil in the United kingdom, Norway and some OPEC member states. Ibid.

[158] See Macartan Humphreys and others (n 4) 5. See also, Lkhagva Gerelmaa and Koji Kotani n 4.

[159] Macartan Humphreys and others (n 4) 5. See, Andrew C. Inkpen and Michael H Moffett, *The global oil & gas industry: Management, strategy and finance* (PennWell Books 2011) 74–76; Ivar Kolstad and Abel Kinyondo n 52.

[160] See Alan H Gelb (n 34) 30.

[161] See Frederick van der Ploeg n 3. See also, Alan H Gelb (n 34) 21-29; W. M. Corden, 'Booming Sector and Dutch Disease Economics: Survey and Consolidation' (1984) 36 Oxford Economic Papers 359; Norio Usui,

resource rents impeded reforms, and slowed down the competitive diversification of the economy, which led to a sudden depreciation of the real exchange rate, following the 1998 oil shock.[162] This shock may have cut up to 5% off the GDP, and thus affected the non-resource tradable sector negatively.[163] Yates described the Dutch Disease as a pathology that has been discovered in some petroleum-rentier economies, as a consequence of the oil-price shock that has occurred in the global petroleum industry.[164] The rapid growth of the petroleum industry, which resulted in higher export of these petroleum resources usually leads to a decline in the relative size of the agricultural, and manufacturing sectors of an economy.[165] For instance, industries built on the export of cocoa, palm oil and rubber in Nigeria were devastated by the fall of agricultural production value as a consequence of the Dutch Disease in the 1970s until the mid-1980s.[166] This was a resultant of the discovery of petroleum, and the eventual government focus on this sector while neglecting the other sectors.

The sector that tends to fall behind, is the agricultural sector, and this has been noted by many observers of the Dutch disease.[167] Stevens observed that in developing countries that suffer Dutch Disease, the agricultural sector suffers most in these countries' economy.[168] As petroleum export values rise, this, in turn, makes for appreciation in the exchange rate, which makes the export of non-oil and gas commodities hard.[169] On the whole, petroleum resources become the main priority at the expense of the long-established export sector, as was observed in Nigeria in the 1970s.[170] In like manner, Frankel affirmed that the

'Dutch Disease And Policy Adjustments To The Oil Boom: A Comparative Study Of Indonesia And Mexico' (1997) 23 Resources Policy 151.

162 See Richard M. Auty (ed) (n 9) 22.

163 Ibid.

164 Douglas A. Yates (n 100) 27-29.

165 See Michael Ross (n 10) 48. See also Ivar Kolstad and Arne Wiig n 50; Frederick van der Ploeg n 3 ; Anthony J. Venables n 2.

166 Ibid.

167 Alan H Gelb (n 34) 86. See also Michael Bruno and Jeffrey Sachs, 'Energy And Resource Allocation: A Dynamic Model Of The "Dutch Disease"' (1982) 49 The Review of Economic Studies 845 and Nicholas Apergis and others, 'Dutch Disease Effect Of Oil Rents On Agriculture Value Added In Middle East And North African (MENA) Countries' (2014) 45 Energy Economics 485.

168 See also Paul Stevens, 'Resource Impact: Curse Or Blessing? A Literature Survey' (2003) 9 Journal of Energy Literature 3.

169 See Macartan Humphreys and others (n 4) 5. See also Richard M. Auty (ed.) (n 80) 20; Roberto Iacono, 'The Dutch Disease Revisited: Absorption Constraint And Learning By Doing' (2018) 17 Portuguese Economic Journal 61.

170 Ibid.

abundance of natural resources such as hydrocarbons, minerals, and even possibly agricultural endowments could present adverse effects to a country's economy, this assertion being supported by theoretical reasoning and statistical evidence.[171]

Furthermore, Sachs and Werner observed that over-reliance on the export of a natural resource, chiefly petroleum for foreign exchange, makes these natural resource-rich countries susceptible to the Dutch Disease, thus leading to the country neglecting other sectors of their economy.[172] The petroleum industry becomes the crown jewel of the nation, as the scramble to receive the vast rents from the export of petroleum resources intensifies. For example, a Nigerian scholar Pat Utomi connects the problems faced by the Nigerian economy to the Dutch Disease and he advanced his position using data which demonstrated, that in the period 1987 – 1990 when the country's revenue dwindled, manufacturing increased - however, as petroleum revenues grew in 1991, it marked the end for the steady growth for the manufacturing sector, and the windfalls from petroleum have left the Nigerian economy stagnant.[173] Equally, scholars looked at the economic problems of Nigeria, about its "stunted institutional growth", and assert that waste and corruption from its petroleum resources rather than Dutch Disease is responsible for the economy's poor performance and state.[174]

In contrast, Norway is a success story in the manner in which they have managed their petroleum resources, and thus avoided the resource curse.[175] In addition,

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[171] Jeffrey A. Frankel (n 3). See also Jeffrey A. Frankel n 3, and Milan Brahmbhatt, Otaviano Canuto and Ekaterina Vostroknutova, 'Dealing With Dutch Disease' (*The World Bank*, 2010) <https://openknowledge.worldbank.org/bitstream/handle/10986/10174/548670BRI0EP160Box349431B01PUBLIC1.pdf;sequence=1> accessed 18 April 2019.

[172] Jeffery D Sachs and Andrew M. Warner n 10.

[173] See Emeka Duruigbo n 22. See also Ivar Kolstad and Tina Søreide, 'Corruption In Natural Resource Management: Implications For Policy Makers' (2009) 34 Resources Policy 214; Alan H Gelb (n 34) 91-93; Brian Pinto, 'Nigeria During And After The Oil Boom: A Policy Comparison With Indonesia' (1987) 1 The World Bank Economic Review 419; Andrew Williams, 'Shining A Light On The Resource Curse: An Empirical Analysis Of The Relationship Between Natural Resources, Transparency, And Economic Growth' (2011) 39 World Development 490.

[174] Ibid.

[175] See Juan M. Ramírez-Cendrero and Eszter Wirth, 'Is The Norwegian Model Exportable To Combat Dutch Disease?' (2016) 48 Resources Policy 85; Paul Stevens, Glada Lahn and Jaako Kooroshy, 'The Resource Curse Revisited' [2015] The Royal Institute of International Affairs (Chatham House) <http://www.dehai.org/archives/dehai_news_archive/2015/aug/att-0657/The_Resource_Curse_Revisited.pdf> accessed 31 January 2019 and Erling Roed Larsen, 'Escaping The Resource Curse And The Dutch Disease? When And Why Norway Caught Up With And Forged Ahead Of Its Neighbors' (2006) 65 American Journal of Economics and Sociology 606.

Gelb in an attempt to measure the Dutch disease in an economy, observed that the most significant shift to non-traded sectors occurred in Trinidad and Tobago and Nigeria, and this was observed in the early 1970s.[176] Furthermore, Gelb assessing the impact of oil windfalls on an economic structure, divided non-oil economies into four key sectors: agriculture, manufacturing, construction, and services.[177] Differently from Gelb, Sachs and Werner's Dutch Disease model asserted that the economy has three sectors; a tradeable natural resource sector (usually the petroleum sector), a tradeable (non-resource) manufacturing sector, and a non-traded sector.[178] The present-day effect of the Dutch disease on these economies should be critically examined, to ascertain whether the effects of the disease are present in their economies, or have they found a solution to it.

Stevens claimed that the exact nature of the theory of Dutch Disease has been disputed, and the empirical pieces of evidence that have been put forward to support its existence are also questionable.[179] Be that as it may, the present situation in countries like Venezuela and Nigeria tend to say otherwise as to the slow and stagnated growth of these economies can be perceived. In the same way, Gerelmaa and Kotani's analysis of the Dutch Disease asserted that countries rich in natural resources experienced slow economic growth due to the Dutch Disease, as these countries depended highly on the national income generated from natural resources.[180] Important to remember that petroleum resources are generally external resources, as crude oil is usually an export commodity.

Going by the above analysis, achieving economic growth through natural resources seems tedious but obtainable. Finally, Stevens observed the issue of the resource curse, and how natural resources can be a blessing to a resource-rich state, especially a developing country which is an exceptionally complicated matter.[181] Although the pieces of literature are separated on both the cures and causes of the resource curse, there seem to be an increasing number of authors

[176] See Alan H Gelb (n 34) 87, 91-93.
[177] Ibid.
[178] See Jeffery D Sachs and Andrew M. Warner n 10.
[179] Paul Stevens n 165.
[180] Lkhagva Gerelmaa and Koji Kotani n 4.
[181] Paul Stevens n 165. See also Christa N. Brunnschweiler and Erwin H. Bulte n 26 and Frederick van der Ploeg and Steven Poelhekke, 'The Pungent Smell Of "Red Herrings": Subsoil Assets, Rents, Volatility And The Resource Curse' (2010) 60 Journal of Environmental Economics and Management 44.

in agreement, that the curse to some extent, fundamentally has to do with governance and the solution lies more in the political economy than macro-economic investigations.[182]

5.5 The Role Of Legal And Institutional Dimension

The appropriate definition of an institution is still an on-going debate. The definition advanced by Douglass North has been used by many authors.[183] The importance of institutions for economic growth cannot be overemphasised. According to North, institutions provide structure to an economy, and as this structure progresses, this would assist in steering an economy towards growth, decline, or stagnation.[184] According to North, the performance of economies is usually influenced by institutions, and this assertion is not contentious.[185] Furthermore, North stated that institutions are the "rules of the game in a society" that "structures incentives in human exchange, be it social, economic, or political.[186] He claimed that the minimisation of uncertainty by setting up a stable structure for everyday human life is the central role of the institutions in a state.[187]

According to Acar, the fact that a state is rich in natural resources does not necessarily lead to unpleasant outcomes in every institutional context. Instead, this occurs only in some circumstances.[188] Thought should be given to the interactions between natural resources and institutions, in a specific region, and at a particular time.[189] Therefore, there is a need to understand how the extraction

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[182] Furthermore Stevens asserted that the salient question is not what was done? But why was it done? See Paul Stevens (n 123). See also Egil Matsen and Ragnar Torvik, 'Optimal Dutch Disease' (2005) 78 Journal of Development Economics 494.

[183] See Douglass C. North, *Institutions, Institutional Change And Economic Performance* (Cambridge University 1990) and Christopher Kingston and Gonzalo Caballero, 'Comparing Theories Of Institutional Change' (2009) 5 Journal of Institutional Economics 151.

[184] Douglass C. North, 'Institutions' (1991) 5 Journal of Economic Perspective 97.

[185] Douglass C. North (n 179) 3.

[186] In addition, formal rules, informal rules, and their enforcement characteristics, related to the economic performance, outlines the determinant role of institutions. Formal rules are laws and constitutions, which incorporates political and judicial rules, economic rules and contracts. While informal constraints include conventions and norms. Also North distinguished between institutions and organisations. See Douglass C. North (n 179) 3-6, 36-48.

[187] Douglass C. North (n 179) 6. See also Christopher Kingston and Gonzalo Caballero n 179.

[188] Sevil Acar (n 6) 27.

[189] See José Carlos Oriheula n 62.

of petroleum resources in a state interacts with the political system and institutions. The abundance of natural resources has been argued to shape the institutions and their quality, especially after the colonial period.[190]

It is essential that the institutions relevant to this study be specified, although some of them will be critically analysed in chapter 6. In discussing the relevant institutions, Amundsen proffered "institutions of extraction" and the "institutions of redistribution".[191] Extraction institutions include the NOC of the state, Ministries of Finance and Petroleum, tax authorities, central bank, and the ruling party.[192] While the institutions of redistribution include: the parliament or legislature, and the judiciary, as these arms of the government are the institutions entrusted with the duties of checks on the executive, in a democratic country.[193] Collectively, they advance the goal of economic development through the effective management of the petroleum resources, for the benefit of the state.

Following the discussion of the resource curse, and rent-seeking states, some literature has considered institutions as an intermediary factor between resource wealth, economic development and social inequalities.[194] At the same time, pieces of literature have argued the relationship and role of institutions for economic growth.[195] In many ways, policies, political and economic institutions have been argued to be a vital element in the analysis of economic growth.[196] Further,

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[190] Especially institutions in the political sector. To clarify, the growth of institutions are path-dependent and some of these institutions, that might have been harmful to the development of the country, survived the decolonisation of the country. See Jann Lay and Toman Omar Mahmoud n 27.
[191] Inge Amundsen n 38.
Some institutions manage the distribution of the benefits of the natural resource extraction. While some institutions appear to manage the distribution of the cost of natural resource extraction. See Eduardo Dargent et al. 'Cycle of Abundance and institutional pathways' in Eduardo Dargent and others (eds), *Resource Booms And Institutional Pathways* (Palgrave Macmillan 2017) 10-12. See also Emma Gilberthorpe and Elissaios Papyrakis, 'The Extractive Industries And Development: The Resource Curse At The Micro, Meso And Macro Levels' (2015) 2 The Extractive Industries and Society 381.
[192] Inge Amundsen n 38.
[193] Ibid.
[194] See; Pauline Jones Luong and Erika Weinthal (n 34) 3; S.E. Ologunla, R.O. Kareem and K.A. Raheem, 'Institutions And The Resource Curse In Nigeria' (2014) 7 Journal of Sustainable Development Studies 36.
[195] See Emmanuel Flachaire, Cecilia García-Peñalosa and Maty Konte, 'Political Versus Economic Institutions In The Growth Process' (2014) 42 Journal of Comparative Economics 212; John S. Duffield and Charles R. Hankla, 'The Efficiency Of Institutions: Political Determinants Of Oil Consumption In Democracies' (2011) 43 Comparative Politics 187.
[196] See Hugo J. Faria and others, 'Unbundling The Roles Of Human Capital And Institutions In Economic Development' (2016) 45 European Journal of Political Economy 108. See also Daniel L. Bennett and others, 'Economic Institutions And Comparative Economic Development: A Post-Colonial Perspective' (2017) 96 World Development 503.

Acemoglu et al. in support of this, claimed that political institutions 'set the stage' in which economic institutions can be formed.[197] While, Flachaire et al. hypothesised that there are multiple growth systems and that the political institutions are the main factor in ascertaining what system a country is rightly placed in, as the use of these natural resources are usually influenced by the domestic political institutions.[198] Human capital also plays a critical role in the connection between resource development activities and economic growth.[199]

In determining whether natural resources have a positive or negative effect on the economic growth of a resource-rich state, Boschini, Pettersson, and Roine advanced the argument that in the absence of good institutions, an abundance of natural resources can lead to the resource curse, as natural resources by themselves cannot impair the economic growth of a state.[200] Additionally, Corrigan, in her paper, affirmed that the robustness, and quality of institutions, and the government could explain the presence of the resource curse in a country.[201] Using Norway and Botswana as a success story, Corrigan explained why some countries benefit economically from their natural resources and others do not.[202] Alexeev and Conrad, in an attempt to measure the quality of institutions, used the rule of law, control of corruption and voice, and accountability as a dependent variable.[203] Therefore, the government and the institutions of the state have a role to play in ensuring the effective management of these resources going by the arguments of Boschini et al., as petroleum on its own cannot lead to the curse.

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[197] See Daron Acemoglu and others, 'Institutional Causes, Macroeconomic Symptoms: Volatility, Crises And Growth' (2003) 50 Journal of Monetary Economics 49.
[198] See Emmanuel Flachaire, Cecilia García-Peñalosa and Maty Konte n 190; John S. Duffield and Charles R. Hankla n 190. See also Rebecca Miller, 'Natural Resource Extraction And Political Trust' (2015) 45 Resources Policy 165 and Nikolaos Antonakakis and others, 'Oil Dependence, Quality Of Political Institutions And Economic Growth: A Panel VAR Approach' (2017) 53 Resources Policy 147.
[199] See Shuai Shao and Lili Yang, 'Natural Resource Dependence, Human Capital Accumulation, And Economic Growth: A Combined Explanation For The Resource Curse And The Resource Blessing' (2014) 74 Energy Policy 632.
[200] Anne Boschini, Jan Pettersson and Jesper Roine, 'The Resource Curse And Its Potential Reversal' (2013) 43 World Development 19.
[201] See Caitlin C. Corrigan n 27. In affirming the need for institutional reforms for countries blessed with abundance of natural resource, and experiencing the resource curse. See also Erwin H. Bulte, Richard Damania and Robert T. Deacon, 'Resource Intensity, Institutions, And Development' (2005) 33 World Development 1029.
[202] Ibid.
[203] Michael Alexeev and Robert Conrad, 'The Natural Resource Curse And Economic Transition' (2011) 35 Economic Systems 445.

For a state to achieve economic development from petroleum resources, a stable institution and legal framework is essential. Over-dependence on petroleum revenues by government institutions ends up weakening and damaging these institutions, and in turn, as the institutions are weak, the government becomes less effective. Hence the government's ability to maintain countercyclical policies could be impaired.[204] Poor macroeconomic policies were argued by Acemoglu et al. as one reason for weak institutions and lead to political institutions that do not restrict the political elites and politicians, thus leading to poor management of the wealth obtained from the natural resources and corruption.[205]

In support of the importance of institutions, Van der Ploeg asserted with empirical evidence that corrupt institutions do have an unfavourable effect on the growth of an economy that is rich in natural resources, thus supporting the claims, that good institutions are essential if any country rich in petroleum resources were to avoid the resource curse,[206] although in his study, he included different variables in his analysis. For example, he tied his analysis to corruption, democratic and non-democratic regimes, presidential democracy, voracious rent-seeking and armed conflict.[207] Andersen and Aslaksen argued that the enquiry into the institutional design rather than the performance of the institution is the answer to tackle issues of resource curse.[208] With empirical results in their paper, they claimed that the form of government is significant in analysing the presence of the resource curse and that presidential and non-democratic governments are likely to suffer from the resource curse. In contrast, democracies with a parliamentary form of government usually escape the curse of abundant natural resources.[209]

Kolstad in analysing the resource curse and the institutions that matter suggested that for a state to avoid the resource curse, good institutions are fundamental.[210] According to Kolstad's rent-seeking models, and the patronage models of the

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[204] Michael Ross (n 10) 208. See also Robert Deacon n 3 and Aynur Yıldırım and Mehmet Faysal Gökalp, 'Institutions And Economic Performance: A Review On The Developing Countries' (2016) 38 Procedia Economics and Finance 347.
[205] The paper documented a strong relationship between institutions and volatility, using a historically resolved component of institutions. See Daron Acemoglu and others n 192.
[206] See Frederick van der Ploeg n 3.
[207] Ibid.
[208] See Jørgen Juel Andersen and Silje Aslaksen n 34.
[209] Ibid.
[210] See Ivar Kolstad n 34. See also Arpita Asha Khanna n 34.

resource curse, while testing the hypothesis of private sector institutions, and public sector institution, concluded that going by empirical analysis the private sector institutions matter.[211] In like manner, for a state to avoid the effects of the resource curse, Idemudia agreeing with Kolstad claimed that for a state with an abundance of natural resources to discourage, rent-seeking, political patronage, and secrecy in the public sector, there would be the need for strengthening or establishment of institutions.[212] Dietsche suggested that the academic explanations for strong institutions can be looked at as a way to tackle poor sector governance, as the institutional constraints will prevent self-interested individuals, elites or political groups from using the petroleum rents for personal benefit.[213] In support, Costa and Santos in their work proffered the strengthening of the state institution through legislative oversights.[214] These measures could help a state gain the benefit of their petroleum resources when the state, through their legislation support the institutions that are involved in petroleum development, especially giving support for the role the NOC plays.

Mehlum, Moene and Torvik in their analysis emphasised the need for quality institutions, as it is the quality of the institution that will determine whether the natural resource-rich state will avoid the resource curse or not.[215] Therefore, the absence of strong institutions causes rent-seeking and thus will lead to the enrichment of the elite groups in the country.[216] In an investigation into the role of the economic institution, Kotschy and Sunde claimed that high quality of institutions could be achieved in both democratic and autocratic governments.[217]

It is essential to have a look at the debates over the different types of natural resources and the impacts on government institutions. Boschini et al. in their work on the resource curse, stressed the importance of the type of natural resource a country possesses while affirming their results, which indicates that improvement in the quality of institutions can lead to a positive outcome for a country's economy that has an abundance of natural resources rather than the resource curse, which

[211] Ibid.
[212] Uwafiokun Idemudia n 64.
[213] Evelyn Dietsche, 'Political Economy and Governance' in Tony Addison and Alan Roe (eds) (n 81) 132.
[214] Hirdan Katarina de Medeiros Costa and Edmilson Moutinho dos Santos n 29.
[215] Halvor Mehlum, Karl Moene and Ragnar Torvik n 4. See also Jonathan Isham and others n 27.
[216] Paul Stevens, Glada Lahn and Jaako Kooroshy n 128.
[217] Rainer Kotschy and Uwe Sunde n 125.

has been shown by many studies.[218] To emphasise, a developing oil-rich government, with sudden high revenues from its resources can sometimes be overwhelming for the government institutions which can result in "bureaucratic overstretch".[219] For example, Ologunla et al. analyse the Nigerian institutions and concluded that the country's institutions are not strong enough to manage the high revenue from petroleum exports, thus leading the country to suffer from the resource curse, as there has not been a significant positive impact on the economy.[220] In addressing the natural resource curse, the works of Sala-i-Martin and Subramanian show the harmful impact the quality of a domestic institution has on economic growth and cited the Nigerian experience as evidence of the natural resource curse.[221] The poor long-run economic performance of the Nigerian economy is an example of waste and poor institutional quality.[222]

Some academics claimed that petroleum wealth leads to "bad institutions," which then results in a weak, corrupt, less competent government, who would not be able to maintain prudent fiscal policies.[223] This might be true in some situations, but the extent to which the argument can be tested in different cases and institutions is yet to be evidenced.[224] Therefore, a developing country may suddenly discovers huge petroleum reserves, and start earning higher revenue. These revenues cannot overnight make the governments effective; the effectiveness of the government will depend on the strength of its institutions. The discovery of petroleum which leads to higher revenue for the government cannot be said to have harmed the government as a result of the ineffectiveness of the government.[225] There is no correlation between a developing country's oil and gas income and the quality of its government. When looking at low performing

[218] Anne D. Boschini, Jan Pettersson and Jesper Roine n 11. See also Tomas Havranek, Roman Horvath and Ayaz Zeynalov, 'Natural Resources And Economic Growth: A Meta-Analysis' (2016) 88 World Development 134; Jonathan Isham and others n 27.
[219] Possibility of using the revenues poorly can be said to be when the windfalls overwhelm the developing states bureaucratic capacity. See Michael Ross (n 10) 209.
[220] S.E. Ologunla, R.O. Kareem and K.A n 144.
[221] See Xavier Sala-i-Martin and Arvind Subramanian, 'Addressing The Natural Resource Curse: An Illustration From Nigeria' (2012) 22 Journal of African Economies 570. See also, Agwara J. Onyeukwu, 'Resource Curse In Nigeria: Perception And Challenges' [2007] Central European University - Center for Policy Studies / International Policy Fellowships <https://core.ac.uk/download/pdf/11871241.pdf> accessed 8 July 2019.
[222] Ibid.
[223] Michael Ross (n 10) 209. See Tim Wegenast and Gerald Schneider n 112.
[224] See Michael Ross (n 10) 210. See also, Maria Dolores Guilló and Fidel Perez-Sebastian, 'Neoclassical Growth And The Natural Resource Curse Puzzle' (2015) 97 Journal of International Economics 423.
[225] See Michael Ross (n 9) 214-215.

governments some level of variations should be considered in the tasks of these governments, rather than infer that it is because of their "weak institutions" as assumed by many scholars.[226] Weak government institutions take the blame whenever government revenues are handled poorly, could the problem be that these oil states have normal institutions and need exceptionally strong ones rather than they have a weak one and need a normal one.[227] In Yildirim and Gökalp's investigative paper, they claimed that developing countries and their institutions generally lack adequate efficacy, when it comes to the management of their natural resources.[228] Studies of the fiscal policies of developing countries, in both oil and non-oil states, are inclined to be procyclical instead of countercyclical.[229]

5.5.1 NOC Role in Petroleum Resource Development

Stevens and Dietsche stated that good institutions are a promising variable supported by much institutional economics, asserting than the institutions are essential in the economic performance of a resource-rich state.[230] This begs the question, which institutions should a petroleum-rich state be improving and, more importantly, how can they go about improving them?[231] Equally, Van der Ploeg stated that there is a need for studies to understand the changing roles of institutions throughout history.[232] They are thus strengthening the arguments on the importance of institutions in the achievement of economic growth and development through abundant natural resources.

How the petroleum-rich government use its petroleum revenue, whether for the benefit of a few or many citizens of the state is vital when tracing the political and economic problems of the oil state, to put it in another way it is what the oil resources curse contends.[233] Petroleum resources are expected in theory to offer

[226] Ibid.
[227] Ibid.
[228] See Aynur Yıldırım and Mehmet Faysal Gökalp n 199.
[229] Oil revenue has been known to be unstable, this therefore makes countercyclical policies all the more difficult to maintain. See Michael Ross (n 10) 215.
[230] Paul Stevens and Evelyn Dietsche, 'Resource Curse: An Analysis Of Causes, Experiences And Possible Ways Forward' (2008) 36 Energy Policy 56. See also Halvor Mehlum, Karl Moene and Ragnar Torvik n 4.
[231] Ibid.
[232] Frederick van der Ploeg n 3.
[233] Michael Ross (n 10) 5; Jahangir Amuzegar n 30.

considerable benefits to a developing oil-producing state.[234] Expectantly, the revenue received from the production of these natural resources can enhance real living standards by funding higher levels of public and private expenditure.[235] Higher levels of investment can be funded by revenues obtained from these petroleum resources.[236] Further, as the funding of public investment is unavoidably a significant component of any reasonable development plan, revenues from petroleum resources can take out the primary barrier to development, and as a result, lower the lack of financial resources which are very important in the funding of vital public infrastructures and goods.[237] Resultantly, these contributions to the economy by public and private investment leads to the enhanced development of any economy.[238] However, the outcomes of these discoveries are not always positive. For this reason, Kolstad encouraged any petroleum-rich state first to develop the institutions that govern the private sector before that of the public sector. Be that as it may, how can a NOC, going by arguments of ownership and control of the petroleum resources, have the support of government if the private sector becomes the government's priority?

This study aligns its argument to the tone of Mehlum et al. and contends that a NOC, and other vital institutions concerned with petroleum resource development in a petroleum-rich state, especially in a developing state, can assist in economic and social development through the petroleum resources. According to Nakhle, for there to be efficient management of these petroleum resources, responsibilities, and separation of roles should be clearly defined between the different government institutions.[239]

As the powers and influence of the oil majors dwindled NOCs after the 1970s, this has dominated the global supply of oil and gas.[240] Today, from easy access to petroleum, financial strength, advanced management competency and technological capacity can be attributed to some power pillars of some NOCs.[241]

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[234] See Macartan Humphreys and other (n 4) 174-175.
[235] Ibid.
[236] Ibid.
[237] Ibid.
[238] Ibid.
[239] Carole Nakhle n 29.
[240] See Michael Ross (n 10) 41.
[241] See Appendix 5.

Nevertheless, in most countries, IOCs continued to play critical roles in some developing oil-rich states using their easy access to capital, international marketing networks and technical skills to maintain their relevance to these oil-rich states.[242]

Going by the assertions of this study, there is a need for the NOC of a petroleum-rich state to be involved in the production of the nation's petroleum. Mehlum et al. supporting this claim, emphasised the need for producer friendly institutions, as they will assist a natural resource-rich state to take advantage of their natural resources.[243] Albeit, their paper's results contrast with the claims of Sachs and Warner, which stated, that when it comes to the resource curse, institutions are not a decisive factor.[244] Further, as observed by Mehlum et al. the differences in the quality of institutions is the primary explanation for the cause of these diverging experiences, where countries rich in natural resources achieve economic growth, and others do not.[245] Their results showed that natural resources push aggregate income down in grabber-friendly institutions while in producer-friendly institutions abundance of natural resources raised the income.[246] Accordingly, their main postulation argues that producer-friendly institutions escape the resource curse, while the resource curse afflicts countries with grabber-friendly institutions.[247] Bulte et al. acknowledged that the natural resource boom would spur production in countries with good institutions (producer-friendly).[248] Haslam contended that the social foundations of institutional change should be concentrated on when looking at the transition from a 'grabber-friendly' to 'producer friendly' institutions.[249]

Therefore, the NOCs of a country with high-quality public management often play a central role in managing the states' resources. In contrast, a developing country

[242] Today the oil and gas business is carried out by a mix of NOCs, IOCs and hybrid companies that combine state and private ownership. See Michael Ross (n 10) 41-42
[243] Halvor Mehlum, Karl Moene and Ragnar Torvik n 4. See also Paul Stevens and Evelyn Dietsche n 171.
[244] Ibid.
[245] See Halvor Mehlum, Karl Moene and Ragnar Torvik, 'Cursed By Resources Or Institutions?' (2006) 29 The World Economy 1117.
[246] Ibid
[247] Ibid.
[248] Erwin H. Bulte, Richard Damania and Robert T. Deacon, 'Resource Abundance, Poverty And Development' (2004) Working Paper 04-03 ESA UN.
[249] Paul Alexander Haslam, 'Overcoming The Resource Curse: Reform And The Rentier State In Chile And Argentina, 1973-2000' (2016) 47 Development and Change 1146. See also Arpita Asha Khanna n 34.

without a robust public sector who are still improving cannot be relied upon to define the relationship with the private sector whose goals run counter to the public interest.[250] There is always room for improvement, with the right support from the government. With robust policies, the public sector can be improved, as earlier argued privatisation is not always the answer. Equally important, Stiglitz asserts that before any government engages in privatization, its institutions should be strengthened, and ownership, transparency and fairness should be the aims guiding government decisions.[251] According to Ross, no elaborate argument has been developed in defence of the inherent level of secrecy in the oil and gas industry which has been viewed as nothing out of the ordinary.[252]

Petroleum revenues are no different, and these revenues are kept out of the public eye, equally the finances of resource-rich countries are usually opaque. The states where the petroleum revenues are disclosed to the public are predominantly democratic: Brazil, New Zealand and Norway. It is also important to note that some developing petroleum-rich states are democratic, yet they are not transparent. The Nigerian petroleum industry is an example. It is hard to quantify the level of secrecy; as a result, the task of documenting how much money a government is concealing from the public will be difficult.[253] Therefore, petroleum states in their bid to cover their financial activities use unreported off-budget accounts to hide away some of their massive spending and the NOCs are mostly used as an instrument to achieve this goal of secrecy.[254]

It is also important to note that not only democratic developing states engage in concealing petroleum revenues, but NOCs from Western democratic states have also been known to be involved in the act. Notably, France's National Oil Company Elf Aquitaine was involved in a 400 million euros embezzlement by its managers

[250] Macartan Humphreys and others (n 4) 24. See also Sylvain Rossiaud and Catherine Locatelli, 'Institutional Economics' (*Polinares EU Policy on Natural Resources*, 2010) <http://www.ieim.uqam.ca/IMG/pdf/polinares_wp1_institutional_economics.pdf> accessed 13 March 2019.
[251] Macartan Humphreys and others (n 4) 24.
[252] See Michael Ross (n 10) 59-60.
[253] See also Christian Houle n 56 and Jonathan Watts, 'Operation Car Wash: The Biggest Corruption Scandal Ever?' (*theguardian.com*, 2017) <https://www.theguardian.com/world/2017/jun/01/brazil-operation-car-wash-is-this-the-biggest-corruption-scandal-in-history> accessed 27 December 2019.
[254] Ibid.

who used the millions to finance campaigns, bribe foreign politicians, and enrich themselves.[255]

There is a case for the development of natural resources by the private sector as the solution to the issue of government corruption and the events of government officials diverting public funds for their use.[256] However, the events of past decades have made it amply clear that privatisation does not put an end to the chance of corruption.[257] Smith contends that privatisation is mainly the pursuit of self-interest, and it is no surprise that it did not solve the problem of resource diversion.[258] The concern of each corporation to see how much one can get, is by and large the calculus of modern capitalism.[259] The scope for potential collusion and corruption by government officials and others in diverting resources away from the public is increased by privatisation.[260] The ability to realize a substantial fraction of the potential value of a country's resources for its citizens has been something few countries have achieved. Seemingly, Norway's state oil company has been described as both efficient and incorruptible. Norway makes a strong case for state ownership, and it knocks down the beliefs and principles which claim that privatisation is the only way to obtain efficiency and welfare maximization.[261] Following the line of arguments laid out in chapter 4 of this study, the strengthening of government institutions is essential before the government engages in privatisation.[262]

In this study, when it comes to petroleum development, the NOC has always taken centre stage. Although the NOC alone cannot assist a petroleum-rich state in achieving economic development. As expected, a collective effort has to be made

[255] Elissaios Papyrakis, Matthias Rieger and Emma Gilberthorpe, 'Corruption And The Extractive Industries Transparency Initiative' (2017) 53 The Journal of Development Studies 295.
[256] Macartan Humphreys and others (n 4) 27. See Farouk Al-Kasim, Tina Søreide and Aled Williams, 'Corruption And Reduced Oil Production: An Additional Resource Curse Factor?' (2013) 54 Energy Policy 137.
[257] See Macartan Humphreys and others (n 4) 27-30.
[258] Ibid.
[259] Ibid.
[260] Ibid.
[261] Ibid.
[262] Whereas, if the government already has strong institutions as observed in Norway, the more valuable step for the government is to develop institutions for oil extraction. Norway's development of an efficient and honest state-owned enterprise for extraction, assisted it to avoid the agency problem of privatization, which helped the government retain substantial fraction of the value of its asset. Waiting and not rushing into the development of new fields is a strong line of reasoning which developing oil-rich states should look into because these assets will not disappear. See Macartan Humphreys and others (n 4) 39.

by different sectors, and the arm of government. The effective performance of the roles of the executive, legislative or parliament and judiciary is necessary on, the assumption that the state is democratic. As a result, government policies and legal frameworks drive the objectives of most NOCs.

5.6 Conclusion

Taking a broader view of the Resource Curse based on the claims of many commentators demonstrates that it can be temporary, and can be reversed with the right steps.[263] According to Luong and Weinthal, the major shortcoming of the established literature were focused on single time period, which was around 1970s to the 1990s.[264] In the institutional context, a NOC can play a vital role as the petroleum-rich state's institution in advancing economic development through petroleum resources. Scholars, and policymakers are becoming convinced that the resource curse can be thwarted through a wide array of policies that may include natural resource funds, economic diversification, transparency and accountability, and direct distribution.[265] These solutions are reliant on the strength of the institutions, and their capacity, which is observed to be lacking in some resource-rich developing countries, thus leading to their economy suffering from the Dutch Disease.[266] Petroleum resource policies should be designed to ensure that the management of the natural resource windfall leads to economic growth and prosperity for the citizens and the country, and does not lead to a decline of institutions.[267]

There is a need to understand the conditions under which natural resource-rich countries can avoid the curse. It is essential to identify, and understand the experience of a particular country as these experiences vary between countries.[268] This would help a resource-rich country in adopting various sound natural resource policies and institutional changes, as suggested by many studies. This will then

[263] See Pauline Jones Luong and Erika Weinthal (n 34) 28.
[264] Ibid.
[265] Erika Weinthal and Pauline Jones Luong n 33.
[266] Ibid.
[267] Robert Deacon n 3.
[268] See Naazneen H. Barma n 25.

provide a better idea of what the principal levers of change are and consequently which approaches will most likely be successful when these changes are made.[269] A change in policies, when it comes to the management of natural resources is usually needed. The question of implementing these policies to help a country plagued by the resource curse escape is one issue facing the government, ruling group or political elite of the country, especially one from a developing natural resource-rich state. Stiglitz remarked that what is mainly lacking is the political will to do what needs to be done.[270] An abundance of natural resources has been observed to be a blessing in some countries and a curse in others.

According to Acemoglu and Robinson, the main reason why these political elites accept the economic backwardness of the state and maintain the status quo was that, these groups are scared of being replaced by more robust and efficient institutions, and losing their political power.[271] They formulated a model where technological and institutional development may be blocked by the ruling or political group, for fear of being replaced, as progress and innovations usually erode political elite benefits or as they term it the "political replacement effect".[272] The historical evidence they presented is Britain, Germany, Japan, Russia and the Habsburg empire.[273]

They were, therefore, tending to be reluctant to implement policies that would strengthen the state's institutions. For instance, Acemoglu et al. claimed that many developing countries, especially in Africa had been afflicted with kleptocrats, who have sought to implement highly inefficient economic policies, and the continued use of the wealth derived from the natural resources for their personal use, instead of for the benefit of the citizens of the state.[274]

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[269] Andrew Rosser n 23.
[270] Joseph Stiglitz, 'We Can Now Cure Dutch Disease' *The Guardian* (2004) <https://www.theguardian.com/business/2004/aug/18/comment.oilandpetrol> accessed 20 March 2019.
[271] See Daron Acemoglu and James A. Robinson, 'Economic Backwardness In Political Perspective' (2006) 100 American Political Science Review 115.
[272] Ibid.
[273] Ibid.
[274] Daron Acemoglu, James A. Robinson and Thierry Verdier, 'Kleptocracy And Divide-And-Rule: A Model Of Personal Rule' (2004) 2 Journal of the European Association 162. See also P.B. Eregha and Ekundayo Peter Mesagan, 'Oil Resource Abundance, Institutions And Growth: Evidence From Oil Producing African Countries' (2016) 38 Journal of Policy Modeling 603.

The resource curse arguments of this chapter, whether political or economic all have one commonality, which is 'sound policy' recommendation, to escape the resource curse and institutional reforms. This shows the importance of government intervention, and the role government has to play in achieving efficient and beneficial petroleum resource management. The study extended the analysis, using a NOC as its vital institution. Therefore for a state to harness the benefits of its petroleum resources, and avoid the resource curse, a strong NOC as the government institution, will have to play an essential role in achieving this. This, in particular, will be evidenced in the next chapter, when the performance of two different NOCs will be critically analysed.

Prudent management of petroleum resources can lead to economic development. Many studies have proposed several policy reforms in combating the resource curse or avoiding it. Strengthening the institutions, increasing NOC capacity, enforcement of the rule of law, decentralisation,[275] and transparency are among many policies reforms that could enable a petroleum-rich state to benefit from its natural resources. Important to mention that higher human development, stronger fiscal discipline, less corruption and many more beneficial qualities have been suggested by some studies as the outcome when governments are, to a greater extent, transparent.[276] Papyrakis et al. argued the need for transparency, especially for a state with a wealth of petroleum resources, while advising more active participation in the extractive industries transparency initiative (EITI).[277] The extent of the effectiveness of the scheme is arguable.

In summary, it is pertinent for a developing petroleum resource-rich country reliant on petroleum revenues, to answer the question where the petroleum income will come from when the petroleum reserves run out, and they have nothing substantial to show for it. For instance they could invest the windfall in

[275] Sharing the financial benefits of resource extraction with regional governments is referred to as revenue decentralisation. The effective way is to reduce the government's windfall and ensure that the people of the extractive regions will not seek independence as the case of Nigeria and the Niger Delta crisis. Although this can also lead to corrupt and incompetent regional governments, since they can also be as ineffective as central government. See Michael Ross (n 10) 239.

[276] Michael Ross (n 10) 245. See Caitlin C. Corrigan n 27; Farouk Al-Kasim, Tina Søreide and Aled Williams, 'Grand Corruption In The Regulation Of Oil' [2008] U4 Anti-Corruption Resource Centre <https://brage.bibsys.no/xmlui/bitstream/handle/11250/2474801/Grand%20Corruption%20in%20the%20Regulation%20of%20Oil?sequence=1&isAllowed=y> accessed 31 January 2019.

[277] Elissaios Papyrakis, Matthias Rieger and Emma Gilberthorpe n 185.

either a diversified economy or a sovereign wealth fund.[278] Hasanov, in his study on the Azerbaijan economy, remarked on the need for focus and development of the non-oil tradable sector by the policymakers.[279] This can be achieved by implementing tax exceptions, which will support the non-oil export policies and exchange rate.[280] Finally, a NOC of the state, acting as the principal institution for the development of the petroleum resources, can be a vital key for the state to escape the curse when other related institutions are also strengthened alongside the NOC.

[278] See Fakhri Hasanov (n 52). See also Frederick van der Ploeg n 63; Youmanli Ouoba n 70.
[279] Ibid.
[280] Ibid.

CHAPTER SIX - EQUINOR AND NNPC: NOCS FROM A DEVELOPED AND DEVELOPING PETROLEUM-RICH STATES

6.1 Introduction

The previous chapters analysed petroleum resources, ownership and control as concepts of resource nationalism, the rentier state, and resource curse theory. For the most part, this chapter should be read in connection with chapters 2, 3, 4, and 5. This chapter will, therefore, use these concepts, and theories in the comparative analysis of Equinor and NNPC concerning the government's petroleum policies and regulatory frameworks set up in a bid to support the NOC in carrying out its objectives. It is expected that countries that are rich in natural resources or petroleum resources must find effective ways to manage the revenue from these resources, in order to escape the resource curse.[1] Norway and Nigeria's constant use of their NOC as a tool for managing petroleum resources and achieve a wide array of objectives is what this chapter will be concerned with.[2]

The commercial roles of NOCs seem to be the benchmark for a successful NOC, not forgetting the fact that NOCs are huge complex entities, with varying roles, resources and experience, thus, each company's portfolio capacity will vary.[3] Questions abound as to how to analyse and determine when a NOC is said to be performing well with the petroleum resources in its trust, and how these NOCs embark on achieving the set objectives?[4] According to the Natural Resource Governance Institute (NRGI), delivering significant value to state stakeholders and treasury, successful exploration, development of non-fiscal benefits such as infrastructure construction, the development of new technologies and skills, are

[1] Youmanli Ouoba, 'Natural Resources: Funds And Economic Performance Of Resource-Rich Countries' (2016) 50 Resources Policy 108.

[2] Notably, governments' through their petroleum sector policies, usually use their NOCs to achieve economic development, socioeconomic objectives and most importantly the maximisation of rents derived from the exploitation of the petroleum resources. See Silvana Tordo, Brandon S Tracy and Noora Arfaa, *National Oil Companies And Value Creation* (World Bank 2011) Xi.

[3] See 'The National Oil Company Database' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/national_oil_company_database.pdf> accessed 22 July 2019.

[4] Ibid

interpretations of a valid NOC.[5] Policies are also the focus of any government in the context of petroleum resource development, and this could include political and fiscal policies.[6] When it comes to good petroleum resource governance, the NOCs have taken centre stage in the global petroleum industry in recent times, as they act as the champions of the petroleum-rich states.[7] This in no way diminishes the vital role played by the government in their petroleum industry.

Critical analysis of both NOCs will be made by the available evidence, based on their objectives, governance, performance, and concluding what framework design would better suit a developing country, looking to achieve economic development through their petroleum resources. This chapter, while carrying out a comparative study of the two select NOCs: Equinor and NNPC will not ignore the role that policies, and regulations have played in the development of the selected states' petroleum industry,[8] thus helping one gain insight into the petroleum industries of Norway and Nigeria. Comparative study of a developed country's NOC and a developing country's NOC is expected to give insights to a developing country, or the successes of the developed country, in achieving some form of economic development, by how it managed its petroleum resources through its NOC. Frameworks that support the goals of full ownership and control, as argued in chapter 4, and the adoption of sound legislation cover all facets of their petroleum industry.

According to Akinola in assessing a state's failures and institutional - NOC failures, different factors have to be evaluated.[9] He further argued that exposure to the industrialised or developed countries of Western Europe or North America could

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[5] Ibid.

[6] The needs of the state as an owner and regulator of the petroleum resources are what these policies should normally attempt to balance. See Tina Hunter, 'The Role of Regulatory Frameworks and State Regulation in Optimising the Extraction of Petroleum Resources: A Study of Australia and Norway' (2014) 1 The Extractive Industry and Society 48.

[7] Mari-Lise du Preez, 'Interrogating the 'Good' in 'Good Governance': Rethinking Natural Resources Governance Theory and Practice in Africa' in J. Andrew Grant, W. R Nadège Compaoré and Matthew I Mitchell (eds.), *New Approaches To The Governance Of Natural Resources* (Palgrave Macmillan 2015) 25-30.

[8] The energy laws of any state is directly related to the management of the natural resources of that state, therefore it is very important to get the legal framework right for efficient running of the natural resource sector of each state. See Raphael J Heffron and Kim Talus, 'The Development of Energy Law in The 21St Century: A Paradigm Shift?' (2016) 9 The Journal of World Energy Law & Business 189.

[9] See Adeoye O. Akinola, *Globalization, Democracy And Oil Sector Reform In Nigeria* (Palgrave Macmillan 2018) 61 - 62.

accelerate the process of development, which he believes to be a natural process. This were affirmed in his arguments on modernization theory.[10]

This chapter will be divided into five sections. Section one is the introduction, while section two will be the history of the petroleum industry of both Norway and Nigeria, and a comparative critical evaluation of developed petroleum industry and that of a developing one. The third section will comparatively evaluate how both countries organised their petroleum sector. Section four evaluates the role of the state in the petroleum sector organisation. Section five will undertake a comparative evaluation of both countries NOC, where both NOCs will be critically analysed based on their achievements, economic, and the socio-economic value which they add to their various states.

Other factors that influence these NOCs will be mentioned, albeit not at length. Historical, political, and socio-economic considerations have to be analysed in the context in which these NOCs were established.[11] While bearing in mind that no two NOC are the same, the Norwegian and Nigerian petroleum industry differ in so many ways, from geology, mandate, endowment, experience, petroleum sector organisation, governance, NOC strategy and corporate governance structure.[12]

The terms 'developed' and 'developing' country seem to bring different analyses or questions of what measures are used in determining which country is developed and which one is developing.[13] Generally, the level of development of a country is

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[10] Ibid.

[11] Silvana Tordo, Brandon S Tracy and Noora Arfaa,(n 2) 29.

[12] Ibid (n 2) 45, and Patrick Heller, 'National Oil Company Database: Global Launch' (*National Resources Governance Institute*, 2019) <https://www.nationaloilcompanydata.org/api/publications/content/MvBx7qBCgtu0iILVzQGU2yhswUiFrmxxdwNuaT9C.pdf> accessed 25 June 2019. Also, glaring differences between the two country's petroleum industry exist in terms of political, economic history and structure. See María José Paz Antolín and Juan Manuel Ramírez Cendrero, 'How Important Are National Companies For Oil And Gas Sector Performance? Lessons From The Bolivia And Brazil Case Studies' (2013) 61 Energy Policy 707.

[13] Basis for comparison between a developed and developing country can range from; unemployment, poverty, infant mortality rate, death rate, birth rate, life expectancy rate, living conditions, standard of living, distribution of income, industrial growth and factors of production. See Surbhi S, 'Difference Between Developed Countries And Developing Countries (With Comparison Chart) - Key Differences' (*Key Differences*, 2019) <https://keydifferences.com/difference-between-developed-countries-and-developing-countries.html> accessed 19 July 2019. See also, 'How Developing Countries Are Classified For Investors' (*The Balance*, 2019) <https://www.thebalance.com/what-is-a-developing-country-1978982> accessed 19 July 2019 and Margaret Cunningham, 'Economic Inequality: Differences In Developed And Developing Nations' (*Study*, 2019) <https://study.com/academy/lesson/economic-inequality-differences-in-developed-and-developing-nations.html> accessed 19 July 2019.

usually measured by income per capita, and also whether the gross domestic product income (GDP) per capita is high or low, and the standard of living and technological infrastructure of the country.[14] According to the Cambridge dictionary, when a country has high industrial activity, and the citizens' income levels are high, this country would be categorised as a developed one.[15] On the other hand, a developing country falls into the category where there is a small-scale industrial activity in the economy, and the citizens generally have low incomes.[16] Education level, literacy, health are human development (HDI) factors that can also be used to appraise a country's level of development or economy.[17] Therefore, in this study, Norway and Nigeria will represent both sides of the category.[18] According to Doric and Dimovski, in developed countries, the petroleum resources are used for the benefit of the country, thus leading to higher economic growth and income, and this Norway has achieved.[19] Nigeria has been observed to have negative results from the exploitation of their petroleum resources.[20] These different outcomes from the exploitation of petroleum resources by Norway and Nigeria are what this chapter seeks to analyse critically, accentuating some lessons, more for the petroleum-rich developing country – Nigeria.

[14] Will Kenton and Christina Majaski, 'Developed Economies Vs. Non Developed Economies And Criteria' (*Investopedia*, 2019) <https://www.investopedia.com/terms/d/developed-economy.asp> accessed 19 July 2019. See also, 'WTO | Development - Who Are The Developing Countries In The WTO?' (*World Trade Organisation (WTO)*, 2019) <https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm> accessed 19 July 2019; 'Top 25 Developed And Developing Countries' (*Investopedia*, 2019) <https://www.investopedia.com/updates/top-developing-countries/> accessed 19 July 2019;

[15] See 'Developed Country | Meaning In The Cambridge English Dictionary' (*Cambridge Dictionary*, 2019) <https://dictionary.cambridge.org/dictionary/english/developed-country> accessed 19 July 2019.

[16] See 'Developing Country | Meaning In The Cambridge English Dictionary' (*Cambridge Dictionary*, 2019) <https://dictionary.cambridge.org/dictionary/english/developing-country> accessed 19 July 2019.

[17] These factors are usually referred to as non-economic factors. See Will Kenton and Christina Majaski n 15.

[18] In this study Norway represents a developed country and Nigeria a developing country. See 'Country Classification' (*United Nations*, 2019) <https://www.un.org/en/development/desa/policy/wesp/wesp_current/2014wesp_country_classification.pdf> accessed 19 July 2019.

[19] Barbara Doric and Vlado Dimovski, 'Managing Petroleum Sector Performance – A Sustainable Administrative Design' (2018) 31 Economic Research-Ekonomska Istraživanja 119.

[20] Mark C. Thurber, David R. Hults and Patrick R.P. Heller, 'Exporting The "Norwegian Model": The Effect of Administrative Design On Oil Sector Performance' (2011) 39 Energy Policy 5367.

6.2 History Of Petroleum Industry

Engaging in a critical comparative analysis of a developed petroleum-rich state's NOC – Norway, and a developing petroleum-rich state's NOC – Nigeria, certain factors have to be reviewed to help paint a better picture of the environment in which these NOCs operate. Bearing in mind the apparent facts, for example, that Norway is a developed high-income country, and Nigeria, on the other hand, is a developing lower-middle-income country.[21] The only outstanding similar factor being that these two countries can be argued as being petroleum-rich. While one country evidences the benefits from their petroleum resources, the other struggles to create value for the people of the country through their petroleum resources. For example, according to Ahmad in using petroleum resources to achieve some development, Nigeria has catastrophically failed to meet these development goals.[22] Interestingly, the global petroleum industry has undergone several cyclical changes especially when it comes to the oil price. So, therefore, if Nigeria does not achieve economic development through their petroleum resources when the value of petroleum is high, how would they achieve the same in these periods of low oil prices, and also, in the present-day energy transition campaign in the global petroleum industry.

Furthermore, there could be historical suggestions why both country's NOC perform at different levels, while the value creation results of both are different.[23] These historical differences can be demography, location of petroleum resources, political structures, or type of government, and the level of development when these natural resources were discovered.

[21] See data from World Bank, 'Nigeria | Data' (*data.worldbank.org*, 2019) <https://data.worldbank.org/country/nigeria> accessed 15 November 2019 and 'Norway | Data' (*Data.worldbank.org*, 2019) <https://data.worldbank.org/country/norway> accessed 15 November 2019.

[22] See Ehtisham Ahmad and Raju Singh, 'The Political Economy Of Oil Revenue Sharing In A Developing Country' [2003] IMF Working Paper WP/03/16.

[23] See Scott Frickel and William R. Freudenburg, 'Mining The Past: Historical Context And The Changing Implications Of Natural Resource Extraction' (1996) 43 Social Problems 444 and 'Researching The Politics Of Natural Resource Extraction: A New Conceptual And Methodological Approach' (*Effective-states.org*, 2019) <http://www.effective-states.org/wp-content/uploads/briefing_papers/final-pdfs/esid_bp_9_natural_resources.pdf> accessed 15 November 2019.

6.2.1 Norway

Claims that Norway has always attracted foreign interests for its natural resources abound, from hydro to oil and gas.[24] That was the reason the Norwegian government has always been proactive when it comes to their natural resources. As a result, in a bid to gain full control of its natural resources, and resist foreign capital control it passed legislation in 1906, which gave guidelines for the state granting concessions whether to Norwegians or foreigners.[25] The 1959 discovery of vast gas fields in Groningen, Holland did not increase the interest in the Norwegian continental shelf.[26] The increased interest by oil companies in conducting exploration activities made the Norwegian government consider legislation that could further protect the interest of the state.[27]

1962 saw the US oil company Philips Petroleum, apply for permission to carry out geological surveys in the waters of Norway, and this interest by Philips was followed by other oil companies.[28] Unlike the Danish government, Norway did not want to enter into negotiation with individual oil companies about the rights on the Norwegian Continental Shelf.[29] The Royal Decree of May 31, 1963, proclaimed the sovereignty of the state over their seabed and subsoil outside the Norwegian coast.[30] This was the Norwegian government taking charge, and expressing its ownership and control rights over their natural resources. Gordon and Stenvoll

[24] See Tore Tønne, 'Energy Policy: A Norwegian Perspective' (1983) 5 Northwestern Journal of International Law and Business 722. See also, Amir Sasson and Atle Blomgren, 'Knowledge Based Oil And Gas Industry' (2011) Research Report 3 BI Norwegian Business School.

[25] Ibid. This Act was also called the "Panic Act".

[26] In 1958 the Norwegian Geological Survey wrote to the Ministry of Foreign Affairs and expressed the little chances of finding natural resources like coal, oil or sulphur in the continental shelf. See Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate, 'Facts 2012: The Norwegian Petroleum Sector' (2012). See also, 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019; 'Norway's Petroleum History' (*Norwegian Petroleum*, 2019) <https://www.norskpetroleum.no/en/framework/norways-petroleum-history/> accessed 26 July 2019.

[27] Tore Tønne n 25.

[28] See 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019; Amir Sasson and Atle Blomgren n 25; Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27.

[29] Ibid.

[30] Tore Tønne n 25. See also T. Lind and G. A MacKay, *Norwegian Oil Policies* (Hurst 1980) 98. Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27; Norwegian Ministry of Petroleum and Energy/ Norwegian Petroleum Directorate, 'Facts 2013: The Norwegian Petroleum Sector' (2013).

saw this proclamation as the first step in defining the legal and regulatory framework for the Norwegian petroleum industry.[31]

According to Holden, although the Norwegian government expressed their ownership of their petroleum resources, the financing and initial explorations was made by IOCs.[32] In 1965 Norway and United Kingdom signed a treaty, dividing or delineating the continental shelf, according to the median line principle.[33] This ultimately meant that before any exploration was embarked on in Norway, the boundaries were already stipulated, and the field divisions.[34]

In 1969, the first commercial discovery was made in Norway, by Phillips Petroleum Company, this field was the Ekofisk field.[35] In 1971, Frigg Field was discovered. Norway’s three significant fields then were Ekofisk, Frigg and Stratfjord Fields.[36] Notably, production did not start on this field until 1971.[37] Thus began the life of the Norwegian petroleum sector. The production on the Ekofisk field can be said to mark the beginning of the oil and gas period in Norway.[38]

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[31] See Section 1-1 Petroleum Act No. 72 1996. See also, Richard Gordon and Thomas Stenvoll, 'Statoil: A Study In Political Entrepreneurship' [2007] The James A. Baker III Institute for Public Policy Rice University <http://large.stanford.edu/publications/coal/references/baker/studies/noc/docs/NOC_Statoil_Gordon-Stenvoll.pdf> accessed 26 July 2019.

[32] Steinar Holden, 'Avoiding The Resource Curse The Case Norway' (2013) 63 Energy Policy 870.

[33] Same treaty was signed with Denmark. See Norwegian Ministry of Petroleum and Energy/ Norwegian Petroleum Directorate, 'Facts 2013: The Norwegian Petroleum Sector' (2013) and 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019;

[34] This was important as in other parts of the world, such clarification has been lacking before drilling starts and major discoveries are made. That applies in the Caspian, for instance, where Azerbaijan, Iran and Russia are in dispute over boundaries and rights in proven fields. See 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019;

[35] See Tore Tønne n 25. See also, Amir Sasson and Atle Blomgren n 25.

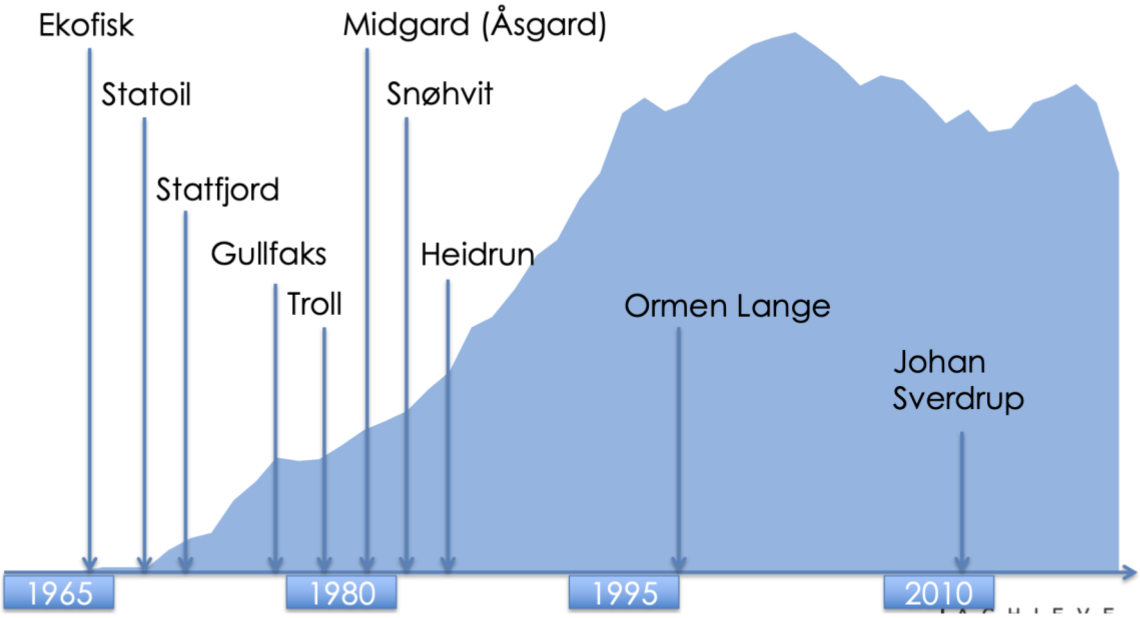
[36] Ibid.

[37] See 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019 and Tore Tønne n 25.

[38] See Amir Sasson and Atle Blomgren n 25. See also, T. Lind and G. A MacKay (n 31) 100.

Figure 6:

Norwegian Continental Shelf (NCS) Oil and Gas Industry Development



Source: culled from Rovik and NPD.[39]

The above figure illustrates how NCS that went from no potential to having barrels of oil and gas being discovered and produced within the NCS.

Tønne observed that the Norwegian government, in their bid to benefit from the exploitation of their natural resources, changed the concession system to participation agreements, thereby increasing the states equity share.[40] The establishment of Statoil (now Equinor) brought with it many changes, as it further increased the state's participation in the petroleum sector of Norway.[41] Therefore, instead of the state being a party to these participation agreements, Equinor became a direct party to these agreements, thus replacing the state.[42] According to Al-Kasim, in promoting participation by a Norwegian petroleum company, Norsk Hydro in 1965 went into partnership with an IOC-Elf.[43]

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[39] See Thor Magnus Rovik, 'The Norwegian Offshore Petroleum Province: Opportunities And Challenges' (Aberdeen, AIPN January, 2020). See also, 'Facts About Norwegian Continental Shelf' (*NPD*, 2020) <https://www.npd.no/en/facts/> accessed 10 April 2020.

[40] Tore Tønne n 25.

[41] Ibid.

[42] Ibid.

[43] See Farouk Al-Kasim, *Managing Petroleum Resources* (Oxford Institute for Energy Studies 2006) 55-58.

A pattern thus forms of thoughtful reaction and planning by the Norwegian government, seen not to be rushed into any decision. Careful planning, and strategizing seem to be the motto, although undoubtedly, with the goal of how the people will benefit most from these natural resources, ever evolving with their policies, and with the global petroleum industry. Hunter asserted that the Norwegian way of regulating is 'Objective-based regulation' which gives the legislation flexibility to respond to changes in the sector or to new issues that arise, unlike 'Rule-based regulatory frameworks'.[44]

To elaborate a little further on these concepts, rule-based regulatory frameworks in a petroleum sector rely on legislatively entrenched rules to regulate petroleum activities. In contrast, objective-based regulation frameworks move away from detailed, prescriptive rules, instead relying on broadly stated principles or objectives to set the standards by which companies conduct their operations.[45]

Furthermore, Moses and Letnes claimed that in regulating petroleum resources, there is a need for commercial acumen, political finesse, and wide-ranging competencies.[46] Notably, according to Al-Kasim, Norway deemed it necessary to gather a wide range of competence and experience, this informed the selection of their administrative team and extension of the proposals for their legal framework.[47] This influenced their appointments for critical position in their petroleum resource sector and also in their NOC, thus, giving shape and structure to the Norwegian petroleum regulatory legal framework.

Even in 1983, Tønne in defining the Norwegian framework for managing its natural resources stated:

> [...] the creation of domestic industrial and management capacity to develop and utilize indigenous energy resources has become a primary goal.[48]

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[44] Tina Hunter n 6.

[45] See, Julia Black, 'Principle Based Regulation: Risks, Challenges And Opportunities' [2007] London School of Economics and Political Science and Julia Black and Robert Baldwin, 'When Risk-Based Regulation Aims Low: Approaches And Challenges' (2012) 6 Regulation & Governance 2.

[46] Jonathon Wayne Moses and Bjørn Letnes, *Managing Resource Abundance And Wealth: The Norwegian Experience* (Oxford University Press 2017) 86.

[47] Farouk Al-Kasim (n 44) 13.

[48] Tore Tønne n 25.

While one can say they went on to achieve that goal, they also added more goals, such as carrying out commercial activities internationally. Expanding on the present goals set, and ever learning from the global petroleum industry. Hence the change of the NOCs name from Statoil to Equinor, and with that their set goals and objectives.[49]

6.2.2 Nigeria

Agriculture was the primary industry in Nigeria before petroleum became the central component of the Nigerian economy. According to Ogri, the search for petroleum in Nigeria started in 1908, and this search intensified in 1938.[50] Different to Ogri's account, Akpan contended that the initial exploration for petroleum started in 1906, and the search for oil by Shell began in 1937.[51] According to various accounts, the first commercial discovery of oil in Nigeria was made in Oloibiri in the Niger Delta (in present-day Bayelsa State) in 1956 by Shell-BP.[52] Before the significant discovery of petroleum, some legislation existed, however these frameworks were influenced by the British, who were then in control of the then Nigerian colony.[53]

In the spirit of the United Nations Resolution on Permanent Sovereignty over Natural Resources, the Petroleum Act of 1969 was enacted which vested the entire ownership and control of all petroleum in, under or upon all land or Nigerian

[49] See 'CEO Eldar Sætre Speaks About The Name Change - Equinor.Com' (*Equinor.com*, 2019) <https://www.equinor.com/en/magazine/ceo-eldar-saetre-speaks-about-the-name-change.html> accessed 26 July 2019.

[50] Onah R. Ogri, 'A Review Of The Nigerian Petroleum Industry And The Associated Environmental Problems' (2001) 21 The Environmentalist 11.

[51] See Wilson Akpan, 'Putting Oil First? Some Ethnographic Aspects Of Petroleum-Related Land Use Controversies In Nigeria' (2006) 9 African Sociological Review / Revue Africaine de Sociologie.

[52] Adedolapo A. Akinrele, 'Transparency in the Nigerian oil and gas industry' (2014) 7(3) The Journal of World Energy Law & Business 220. See also, Wilson Akpan n 52; Ahad Gholizadeh Manghutay, 'Different Approaches And Different Results: A Comparative Analysis Of The Nigerian And Iranian Laws And Policies On Controlling The Foreign Corporations' (2013) 17 Journal of Law, Policy and Globalization 20; Ludwig Herbert Schätzl, *Petroleum In Nigeria* (Oxford University Press 1969) 1.
Furthermore, petroleum began to be exported in 1958. See Alan H Gelb, *Oil Windfalls: Blessing Or Curse* (Oxford University Press 1988) 227; Ogugua V.C. Ikpeze and Nnamdi G. Ikpeze, 'Examination Of Some Legislations Referencing Acquisition Of Rights For Oil Exploration, Prospection And Mining In Nigeria' (2015) 5 Journal of Energy Technologies and Policy.

[53] See Petroleum Ordinance of 1889 and Mineral Regulation (Oil) Ordinance of 1907. See also, Yinka Omorogbe, *Oil And Gas Law In Nigeria* (Malthouse Press 2003) 16-17.

territorial waters in the Nigerian government.[54] The Act, for the first time in the Nigerian oil and gas sector, established a comprehensive statutory regime for the grant of rights to search for, and win oil in Nigeria.[55] Balogun remarked that in the period of the 1960s, the Nigerian government interest in the petroleum industry was limited to the collection of taxes, royalties and lease rentals.[56] The level of change from petroleum rent collectors is yet to be observed in today's Nigerian petroleum industry.

Further, Akinrele contended that the rapid rise of oil production revenues in the 1970s (the 'oil boom era'), hastened the realisation of the government policy of implementing OPEC resolutions calling on the Member States to participate more actively in oil operations and this, in turn, led to the establishment of the Nigerian National Oil Corporations (NNOC) by Act No. 18 of 1971 succeeded by the Nigerian National Petroleum Corporation (NNPC), which came into existence on 1 April 1977 according to Act No. 33 of 1977.[57] According to Onoh the Nigerian NOC was established the same year Nigeria joined OPEC, and this was a response to the OPEC resolution No. XVI.90 of 1968, which required petroleum producing member states to actively participate in all facets of the petroleum operations within its territory.[58] Although this may be true, Ogri claimed that NNOC was created as a means for the Nigerian government to increase its technological and fiscal benefit from petroleum resources.[59] To date however, the increase of technology and financial benefit from the exploration of the petroleum resources by the NNPC is yet to be fully evidenced.

The Nigerian petroleum sector is arguably the mainstay of the Nigerian economy, and is central to her growth and development. For example, petroleum accounts

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[54] See Section 1 of the Petroleum Act of 1969 and also Section 1 Petroleum Act, Cap P10, Laws of the Federation of Nigeria (LFN) 2004. See also, Olajumoke AKinjide-Balogun, 'Legal framework of the Nigerian petroleum industry - corporate/commercial law - Nigeria' (*Mondaq*, 3 April 2001) <http://www.mondaq.com/Nigeria/x/10726/Legal+Framework+Of+The+Nigerian+Petroleum+Industry> accessed 10 January 2017.

[55] Adedolapo A. Akinrele n 52.

[56] Olajumoke AKinjide-Balogun n 54.

[57] See Nigerian National Petroleum Corporation Act Chapter N123 2004. See also, Adedolapo A. Akinrele n 52.

[58] J. K Onoh, *The Nigerian Oil Economy* (St Martin's Press 1983) 30. See also, 'Guidelines For Petroleum Policy In O.P.E.C. Member Countries' (1968) 7 International Legal Materials 1183.

[59] Onah R. Ogri n 51.

for over 55% of Nigeria’s revenue, and about 85% of the country’s export income.[60] According to Malden, going by the Extractive Industries Transparency Initiative (EITI) report on Nigeria’s petroleum resources, it is believed that petroleum resource revenue accounts for 77 per cent of government revenues.[61] Nigerian proven oil reserves are estimated by the United States Energy Information Administration (EIA) as between 16 and 22 billion barrels, but other sources claim there could be as much as 35.3 billion barrels.[62] In support of this view, Ogri stated that ever since the first commercial drilling in Nigeria, the petroleum estimated proven reserve numbers has been going up, and these estimates are conservative estimates at best, and the nation’s reserve potential is yet to be accurately estimated.[63]

60 See Ariel Cohen, 'Will President Buhari Rescue Nigeria's Oil And Gas Sector?' (*Forbes.com*, 2019) <https://www.forbes.com/sites/arielcohen/2019/03/08/will-president-buhari-rescue-nigerias-oil-and-gas-sector/#5ec570c9433d> accessed 14 August 2019; Edoabasi Udo, 'The Regulation Of The Petroleum Industry In Nigeria: An Assessment' [2014] SSRN Electronic Journal and Tsvetana Paraskova, 'Nigeria Continues To Depend Heavily On Oil Export Revenue | Oilprice.Com' (*OilPrice.com*, 2018) <https://oilprice.com/Latest-Energy-News/World-News/Nigeria-Continues-To-Depend-Heavily-On-Oil-Export-Revenue.html> accessed 15 August 2019.

61 See Alexander Malden, 'Nigeria's Oil And Gas Revenues: Insights From New Company Disclosures' (*Natural Resource Governance Institute*, 2017) <https://resourcegovernance.org/sites/default/files/documents/nigeria-oil-revenue.pdf> accessed 26 August 2019. See also, Joseph Mawejje, 'Natural Resources Governance And Tax Revenue Mobilization In Sub Saharan Africa: The Role Of EITI' (2019) 62 Resources Policy 176.

62 Also, according to Akinrele Nigeria is one of the few major oil-producing nations still capable of increasing its oil output. See Adedolapo A. Akinrele n 53. See also Jessica Dillinger, 'The World’s Largest Oil Reserves By Country' (*WorldAtlas*, 2019) <https://www.worldatlas.com/articles/the-world-s-largest-oil-reserves-by-country.html> accessed 15 August 2019; 'OPEC : OPEC Share Of World Crude Oil Reserves' (*OPEC*, 2019) <https://www.opec.org/opec_web/en/data_graphs/330.htm> accessed 15 August 2019; Jeff Desjardins, 'Map: The Countries With The Most Oil Reserves' (*Visual Capitalist*, 2019) <https://www.visualcapitalist.com/map-countries-most-oil-reserves/> accessed 15 August 2019; 'Proven Oil Reserves By Country' (*Globalfirepower*, 2019) <https://www.globalfirepower.com/proven-oil-reserves-by-country.asp> accessed 15 August 2019 and KPMG Advisory, 'Nigeria’s oil and gas industry brief KPMG professional services' (2014) <http://www.blog.kpmgafrica.com/wp-content/uploads/2016/10/Nigerias-oil-and-gas-Industry-brief.pdf> accessed 8 January 2017.

63 Onah R. Ogri n 51. See also, Wumi Iledare, 'Oil And The Future Of Nigeria: Perspective On Challenges And Strategic Actions For Sustainable Economic Growth And Development' [2007] International Association for Energy Economics <https://pdfs.semanticscholar.org/f3ef/1cf132344b6d5d19a442bc99892aa6d7d1be.pdf?_ga=2.53949162.313020515.1566614851-402315301.1566614851> accessed 24 August 2019.

6.2.3 Developed And Developing Petroleum-Rich State: Comparative Analysis

The Norwegian upstream petroleum industry has been labelled one of the best in the world, and their policy framework as being remarkable.[64] Norway has controlled and managed its petroleum resources through its NOC - Equinor that is engaged in commercial hydrocarbon operations, the government ministry that directs policies and a regulatory body that provides oversight and technical expertise.[65] According to Moses and Letnes, the Norwegian petroleum management model has two faces: one that focuses externally on its negotiations with IOCs, the other that focuses internally on how best to manage the petroleum resources for the benefit of the country and its people.[66] Therefore, ensuring that value is created through the extraction of their petroleum resources.

Norway has demonstrated and shown the importance of dividing policy and regulatory roles among different government agencies, which has led to the high achievement levels by its NOC.[67] Uniquely, the administrative design that implemented the separation of functions amongst three government-controlled bodies (a commercial, a policy-making and regulatory body), at an early stage, can be claimed to be the reason for the success of the Norwegian petroleum industry.[68] This was implemented in 1972 and was called the Norwegian Model.[69] The practical separation of functions, did not come overnight, it was a gradual process and learning curve.[70] For example, according to Moses and Letnes the 1977 blowout on the Ekofisk Bravo platform which spilt over 200,000 barrels of oil into the North Sea, and the fatal collapse of the Alexander L. Keilland platform of 1980, exposed the complexity of the functions of the Norwegian Petroleum

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[64] See Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 21; Helge Ryggvik, 'The Norwegian Oil Experience: A Toolbox For Managing Resources?' [2010] TIK-Centre University of Oslo <https://www.sv.uio.no/tik/forskning/publikasjoner/TIK-rapportserie/Ryggvik.pdf> accessed 8 July 2019.
[65] Ibid.
[66] See Jonathon Wayne Moses and Bjørn Letnes (n 46) 77. See also, Section 1-2 Petroleum Act No. 72 1996.
[67] See Barbara Doric and Vlado Dimovski n 20; Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 21; Jonathon Wayne Moses and Bjørn Letnes (n 46) 66.
[68] Ibid.
[69] Ibid.
[70] See indra Overland, 'Norway: Public Debate and the Management of Petroleum Resources and Revenues' in in Indra Øverland (ed), *Public Brainpower: Civil Society and Natural resource Management* (Palgrave Macmillan 2018) 217-234.

Directorate (NPD).[71] Therefore there was a need for some of its functions to be transferred to the Ministry of Petroleum and Energy (MPE).[72]

Norway, through its legal framework, has been successful in the development of its oil and gas resources, and it has become a driver of Norwegian economic growth and national savings.[73] Important to know that the legal basis and regulatory framework for petroleum activities in Norway today is conferred by the Petroleum Activities Act, 1996 and Petroleum Regulations, 1997.[74] The success of the Norwegian oil and gas industry is evidenced by the billions of dollars in its National Resource Funds.[75] Moreover, the revenue to Norway from their petroleum resources are partly paid into the state's Government Pension Fund, which in turn invests in global stock markets, as a strategy to guarantee the value of the fund for the future population who will not have access to petroleum resources.[76] This strategy by Norway has been observed by industry analysts as a plan by the Norwegian government to secure funds for the future generation, owing to the belief that petroleum resources are finite, and thus will run out one day.[77]

Vital to note that Norway's funds were not what they are today;[78] it took time and government support for them to grow. However, today it gives the Norwegian government a savings protection, as it can assist the Norwegian economy to move away from petroleum resource income dependency, as petroleum resources will

[71] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 87-89.

[72] Policymakers and the public were critical about NPD's capacity to promote production, and at the same time protect the environment and workers. This was seen as conflicting mandate, which was viewed as 'NPD were wearing two hats at the same time' and this was somewhat not practical. Ibid.

[73] Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 21.

[74] See Tina Hunter n 6; Chiara van Ingen, Requier Wait and Ewert Kleynhans, 'Fiscal Policy And Revenue Management In Resource-Rich African Countries: A Comparative Study Of Norway And Nigeria' (2014) 21 South African Journal of International Affairs 367 and Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 21.

[75] Ibid.

[76] Sveinung Eikeland and Trond Nilsen, 'Local Content In Emerging Growth Poles: Local Effects Of Multinational Corporations' Use Of Contract Strategies' (2016) 70 Norsk Geografisk Tidsskrift - Norwegian Journal of Geography 13.

[77] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 159-162;

[78] See 'The Fund' (*Norsk Bank Investment Management*, 2019) <https://www.nbim.no> accessed 8 November 2019; David Reid, 'Norway's $1 Trillion Sovereign Wealth Fund Grows Despite A Volatile Quarter For Markets' (*CNBC*, 2019) <https://www.cnbc.com/2019/08/21/norways-1-trillion-sovereign-wealth-fund-enjoys-returns-on-stocks-and-bonds.html> accessed 8 November 2019 and Jillian Ambrose, 'World's Biggest Sovereign Wealth Fund To Ditch Fossil Fuels' (*The Guardian*, 2019) <https://www.theguardian.com/business/2019/jun/12/worlds-biggest-sovereign-wealth-fund-to-ditch-fossil-fuels> accessed 8 November 2019;

run out, as predicted by industry commentators.[79] Although, according to Holter, the Norwegian people are clamouring to spend some of the vast sovereign wealth, as some are opposed to the government's stance of not spending.[80]

An equally important factor to note in this comparative section was that Norway, before the inception of its petroleum sector was already a stable democracy, this, in turn, made the implementation of the administrative design of separation of functions obtainable, and this point is often overlooked.[81] This raises questions as to the extent to which the Norwegian model can be replicated in another country with a different political and economic phase of development. According to Lahn and Stevens, the policies that contributed to the success of Norway will not necessarily work in other countries, because one obvious factor is the state's experience in managing their natural resources which have led to evolved high standards of practice.[82] Albeit this is a result of long periods of economic stability, well-functioning institutions, and experience in the natural resource management.[83]

For clarity, before the discovery of petroleum, Norway enjoyed a fair degree of wealth, as they had natural resources like fish, timber and hydroelectricity. The 'effective and just' management of these natural resources before discovering petroleum, Moses and Letnes argued is part of the explanation of their petroleum industry development.[84] Further, they claimed that the long active state involvement in the economy, the development of a sturdy labour movement and highly developed web of political institutions are the three main political factors

[79] Renamed the **Government Pension Fund, Global (GPFG**) in 2006. Also, today in Norway it is believed that the non-petroleum economy need less monetary support, there most of the income from the petroleum sector are channelled into the GPFG. See Jonathon Wayne Moses and Bjørn Letnes (n 46) 162. See also, 'Norway Government Pension Fund Global (Norway GPFG) - Sovereign Wealth Fund, Norway - SWFI' (*Swfinstitute.org*, 2019) <https://www.swfinstitute.org/profile/598cdaa60124e9fd2d05b9af> accessed 8 November 2019.
[80] See Mikael Holter, 'Norwegians To Giant Wealth Fund: Can I Have My Cash Now' (*Bloomberg*, 2019) <https://www.bloomberg.com/news/articles/2019-11-19/wealth-fund-at-1-1-trillion-has-norwegians-trying-to-cash-out> accessed 26 November 2019.
[81] See Barbara Doric and Vlado Dimovski n 20; Juan M. Ramírez-Cendrero and Eszter Wirth, 'Is The Norwegian Model Exportable To Combat Dutch Disease?' (2016) 48 Resources Policy 85.
[82] Glada Lahn and Paul Stevens, ' The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development' in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 103.
[83] Ibid.
[84] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 47.

that assisted Norway to manage their natural resources effectively.[85] This active state involvement aligns with the claims of this study that when adequately carried out by a petroleum-rich developing state it can yield benefits to the state.

Further, according to the adopted 1814 Norwegian constitution, Norway is a monarchy, where power is divided between three arms of government: a legislative arm, the – Storting; an executive arm; and a judicial arm.[86] Unlike Norway, Nigeria's history is mostly rooted in the history of colonialism by the British, from about 1849 to the eve of independence in 1960.[87] Professor Sagay, detailed a timeline from 1885 to 1914, outlining the British colonial stronghold on Nigeria as a country.[88] He further claimed that the Nigeria that is known today was made up of different independent nations, until the British conquest and the ultimate merging of these different nations as one.[89]

As petroleum was discovered within her territories, Schätzl claimed that the Shell-D'arcy Petroleum Development Company of Nigeria which was an affiliate of the Shell Petroleum Company and the British Petroleum Company acquired the first-ever petroleum resource concession from the English colonial government in 1938.[90] Shell enjoyed this concession until 1955 when the number of concession

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85 Ibid.

86 Norway is a constitutional hereditary monarchy. The government, comprising the prime minister and the Statsråd (Council of State), is nominally chosen by the monarch with the approval of the Storting (Stortinget), the country's legislature. Until 2009 the Storting operated as a bicameral body, though most matters were addressed in unicameral plenary sessions. Only when voting on laws was the Storting divided into two houses. One-fourth of the members were chosen to constitute the Lagting, or upper house, while the remaining members constituted the Odelsting, or lower house. Bills had to be passed by both houses in succession. In 2009 the Lagting was dissolved, and the Storting became permanently unicameral. The constitution of Norway, drafted in 1814 when Norway left the 434-year union with Denmark, was influenced by British political traditions, the Constitution of the United States, and French Revolutionary ideas. Amendments can be made by a two-thirds majority in the Storting. Unlike many parliamentary forms of legislature, the Storting cannot be dissolved during its four-year term of office (amendments to overturn this restriction have been defeated frequently since 1990). If a majority of the Storting votes against an action advocated by the Statsråd, the minister responsible or the whole Statsråd resigns. In legislative matters the monarch has a suspending right of veto, but, since the 91-year union with Sweden was dissolved in 1905, this veto has never been exercised.
See Joyce Chepkemoi, 'What Type Of Government Does Norway Have?' (*WorldAtlas*, 2019) <https://www.worldatlas.com/articles/what-type-of-government-does-norway-have.html> accessed 26 July 2019; 'Norway - Government And Society' (*Encyclopedia Britannica*, 2019) <https://www.britannica.com/place/Norway/Government-and-society> accessed 26 July 2019; 'How Is Norway Governed?' (*Government.no*, 2019) <https://www.regjeringen.no/en/the-government/the-government-at-work1/id85844/> accessed 26 July 2019;

87 Adeoye O. Akinola, (n 10) 92.

88 See Itse Sagay, 'Nigeria: Federalism, The Constitution And Resource Control' *The Guardian* (2001) <https://allafrica.com/stories/200105250403.html> accessed 14 August 2019.

89 Ibid.

90 Ludwig Herbert Schätzl (n 53) 1-9.

takers increased.[91] According to Onoh, as petroleum was added to the list of Nigeria's raw materials, a British-sponsored oil company – Shell BP marketed this natural resource.[92]

For brevity and focus on the theme of the study, the history of Nigeria was claimed by Ross to be the cause of its inefficiencies in managing their natural resources.[93] For instance, to paint a narrow picture of the results of petroleum development in Nigeria since 1956 in that town, Watts remarked that the state of Oloibiri had been nothing to write home about, as there is no running water, no electricity, no roads, high youth violence and the people are so impoverished.[94] Then one wonders if the development cannot be seen in this historic petroleum town, how would the government then guarantee development through the country. Be that as it may, this study will focus on Nigeria after independence, and the petroleum resource discovery, the establishment of her NOC, and finally the role the NOC has played in adding value to the country through the management of these petroleum resources.

Today, Nigeria practices the federal system of government, and this has been a characteristic of its Independence and Republican Constitution of 1960 and 1963.[95] The country went through several military regimes and then moved to a democratic government in 1999.[96] Important to note that Nigeria runs a federal system of government, with the presence of the three arms of government: Executive, Legislative and Judiciary.[97] According to Ugo, the federal political system was adopted to serve a diverse and heterogeneous society, with the maintenance of unity and preservation of the nation's diversity as the main

[91] Ibid.
[92] J. K Onoh (n 58)) 19.
[93] See Michael L. Ross, 'Nigeria's Oil Sector And The Poor' (*UCLA Department of Political Science*, 2003) <https://www.sscnet.ucla.edu/polisci/faculty/ross/papers/other/NigeriaOil.pdf> accessed 14 August 2019.
[94] See Michael Watts, 'Crude Politics: Life And Death On The Nigerian Oil Fields' (*Semantics Scholar*, 2009) <https://pdfs.semanticscholar.org/3f57/b752dea770933bea5894a9669c4b3c44a281.pdf> accessed 4 March 2020.
[95] See Itse Sagay n 88; Philips O. Okolo and Akpokighe O. Raymond, 'Federalism And Resource Control: The Nigerian Experience' (2014) 4 Public Policy and Administrative Research <https://pdfs.semanticscholar.org/7d02/464c4bd1ab3b6eb319c311dd2c705c237511.pdf> accessed 14 August 2019.
[96] Michael L. Ross n 92.
[97] See Constitution of the Federal Republic of Nigeria 1999 (CFRN).

goals.[98] The federal government wills the highest authority in the country, and the 1999 Constitution of the Federal Republic of Nigeria remains the highest legal authority in the country.[99]

Similarly to Norway, Nigeria is blessed with an abundance of petroleum resources. However, in contrast to Norway, according to the recently published resource governance index by the Natural Resource Governance Institute (NRGI), getting low scores, and being ranked within sub-Saharan Africa, and globally, are not positive remarks about the petroleum sector of a state.[100] Nigeria's petroleum sector alongside Venezuela are usually the two notable petroleum industries highlighted in studies which have failed to achieve economic success in the exploitation of their petroleum resources.[101] Statements stress the need for new petroleum nations to avoid falling into the same category as the Nigerian petroleum industry. The immense levels of mismanagement and rent-seeking have made the country synonymous with corruption.[102] Karl expressed the above view succinctly:

> […] the growth of poverty has been catastrophic; in these cases, real per capita income has plummeted to 1960 levels. It is almost as if 40 years of development had not taken place.[103]

Petroleum resources were supposed to be a blessing to the people of Nigeria, but at present, it does not look like that; instead, it looks like a curse.[104] Be that as it

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[98] United States of America, Canada, Australia, and India are some examples of countries that practise federalism. See Samuel C. Ugo, 'Resource Control And Its Challenges To Nigerian Federalism' (2004) 4 The Constitution 57.

[99] See Section 1 Constitution of the Federal Republic of Nigeria 1999. See also, Adeoye O. Akinola (n 10) 99-101.

[100] See Kaisa Toroskainen, 'Resource Governance Index: From Legal Reform To Implementation In Sub-Saharan Africa' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/rgi-from-legal-reform-to-implementation-sub-saharan-africa.pdf> accessed 22 July 2019. See also 'Resource Governance Index: Sub-Saharan Africa Highlights' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/resource-governance-index-sub-saharan-africa-highlights.pdf> accessed 22 July 2019.

[101] See Ian Gary and Terry Lynn Karl, 'Bottom Of The Barrel: Africa's Oil Boom And The Poor' (2003) <http://www.relufa.org/savesite/programs/economicjustice/documents/CRSBottomoftheBarrelfulloilreport.pdf> accessed 22 July 2019. See also Cyril Obi, 'Nigeria: the Role of Civil Society in the Politics of Oil Governance and Revenue Management' in Indra Øverland (ed) (n 71) 202 and Indra Overland, 'Variations on Public Brainpower: Findings from Country Case Studies of Oil-and Gas-producing Countries' in Indra Øverland (ed), (n 71) 376-377.

[102] Ibid.

[103] Terry Lynn Karl, 'Oil-Led Development: Social, Political, And Economic Consequences' (2004) 4 Encyclopaedia of Energy 661.

[104] Ross argued that Nigeria's petroleum resources has done little to reduce the poverty, as would be expected if a nation is blessed with abundance of petroleum or natural resources. See Michael L. Ross n 92. See also 'Nigeria

may, the effective utilisation of petroleum resources has proven to be one of the most challenging tasks for countries dependent on petroleum exports.[105] Campbell argued this point and stated that Nigeria is heavily dependent on petroleum resources, and not oil-rich.[106] His arguments were based on the calculations of Dr Doyin Salami and the assertions of Nigeria's former finance and foreign minister Ngozi Okonjo-Iweala.[107]

Whatever claims that are put forward, the fact is, by petroleum reserve calculations,[108] Nigeria can be categorised as a petroleum resource prosperous state, for a country that pumps over 2 million barrels of crude per day.[109] New deposits of petroleum resources are being discovered increasingly within regions of developing countries and specific countries in sub-Saharan Africa.[110] In general, these discoveries are expected to bring economic and political developments to these countries.[111] These resources have helped some Western countries industrialisation, as it is a well-known fact that some Western countries industrialised on the back of resource extraction from natural resource-rich developing countries.[112] For example, in 2016, crude oil was discovered in Nigeria - Lagos (Aje Field), and Borno.[113] Therefore, there are possibilities of future reserves. How will Nigeria's NOC – NNPC go about achieving success in the

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Recent Developments' (*World Bank*, 2018) <http://pubdocs.worldbank.org/en/848651492188167743/mpo-nga.pdf> accessed 14 August 2019 and Chapter 5. Also, Mähler put forward arguments contrary to the resource curse hypothesis with regards to Venezuela. See Annegret Mähler, 'Oil In Venezuela: Triggering Conflicts Or Ensuring Stability? A Historical Comparative Analysis' (2011) 39 Politics & Policy 583.

[105] Ian Gary and Terry Lynn Karl (n 83). See also Obasesam Okoi, 'The Paradox Of Nigeria's Oil Dependency' (*Africa Portal*, 2019) <https://www.africaportal.org/features/paradox-nigerias-oil-dependency/> accessed 14 August 2019.

[106] See John Campbell, 'Nigeria Is Oil Dependent, Not Oil Rich' (*Council on Foreign Relations*, 2019) <https://www.cfr.org/blog/nigeria-oil-dependent-not-oil-rich> accessed 14 August 2019.

[107] Ibid.

[108] See Jessica Dillinger n 63; 'OPEC : OPEC Share Of World Crude Oil Reserves' (*OPEC*, 2019) <https://www.opec.org/opec_web/en/data_graphs/330.htm> accessed 15 August 2019; Jeff Desjardins (n 54) and 'Proven Oil Reserves By Country' (*Globalfirepower*, 2019) <https://www.globalfirepower.com/proven-oil-reserves-by-country.asp> accessed 15 August 2019.

[109] See Tsvetana Paraskova n 61 and Ariel Cohen n 61.

[110] Stefan Andreasson, 'Varieties Of Resource Nationalism In Sub-Saharan Africa's Energy And Minerals Markets' (2015) 2 The Extractive Industries and Society 310. See also Peter Cameron and Michael Stanley, *The Extractive Industries Sourcebook* (World Bank Group 2017) 3.

[111] Ibid.

[112] Ibid.

[113] See 'OML 113 - Aje Field' (*OilMapNG.com*, 2019) <http://www.oilmapng.com/viewField_page.php?id=52> accessed 14 August 2019 and Emmanuel Graham and Jesse Salah Ovadia, 'Oil Exploration And Production In Sub-Saharan Africa, 1990-Present: Trends And Developments' (2019) 6 The Extractive Industries and Society 593.

development of these resources, in a way that the average Nigerian citizen will benefit.

6.3 Petroleum Sector Organisation

The upstream petroleum sector in every petroleum-producing country can be the highest revenue generator for the state and in the same vein capital intensive with high levels of risk associated with its activities. As earlier pointed out, the upstream sector of both Norway and Nigeria will be the study's core focus, as that is where the NOC principal mandate lies. In this section, a critical review of how Norway and Nigeria organise their upstream section will be carried out to gain an understanding of how one country's sector positively supports the activities of the NOC, and by extension assisting in value creation for the people of the state.

6.3.1 Norway's Petroleum Sector Organisation

The Petroleum Act[114] governs all petroleum activities in Norway, especially the exploration and production of petroleum in Norway, and stresses the importance of the relationship between the government organisations, the licensees, and the third parties in the Norwegian petroleum sector.[115] According to Park, the liberal market model whereby parties have the freedom of contract, as in most developed countries, Norway has a noteworthy component of standard form contracts and 'agreed documentation'.[116] Furthermore, the Norwegian Parliament (Stortinget)

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[114] The Petroleum Act of 1996 replaced the 1985 Act. The Petroleum Act No. 72 of 29th November 1996 (The Petroleum Act). Also, more specific rules are set out in various regulations including the following connected to resources management:

(a) The Petroleum Regulations No. 653 of 27 Junes 1997 (The Petroleum Regulations);
(b) The Resource Management Regulations No. 749 of 18 June 2001;
(c) The regulations relating to use of facilities by others No.1625 of December 2005; and
(d) The Regulations Relating to the Stipulation of Tariffs, etc No. 1724 for certain facilities of December 2002 (The Tariff Regulations).

In addition, there are various regulations relating to Health, Safety and Environment. See 'Regulations' (*Npd.no*, 2019) <https://www.npd.no/en/regulations/> accessed 19 November 2019. See also, Yngve Bustnesli, Norway in Christopher B. Strong (ed.), *The Oil And Gas Law Review* (7th edn, Law Business Research Ltd 2019) 263.

[115] See Section 1 (1) Petroleum Act 1996 No. 72.

[116] See Patricia Park, *International Law For Energy And The Environment* (2nd edn, Taylor and Francis Group 2013) 277-278.

has the ultimate authority with respect to petroleum activities in the country, and regulatory authority.[117]

Organisations or government departments that are usually involved in one form or the other in the management of the state's petroleum resources are many, but for this study, a few of these organisations which this study considers crucial to the arguments will be mentioned. The Norwegian petroleum sector organisations include but are not limited to:

1. **The Ministry of Petroleum and Energy (MPE)**

MPE is tasked with the overall responsibility to manage the petroleum resources within Norway's continental shelf.[118] Further, the Ministry makes sure all the Storting and Norwegian Government guidelines are adhered to, and it has owner's responsibility in for the state-owned Petoro AS, Gassco AS, and the partly state-owned petroleum company Equinor.[119]

2. **The Norwegian Petroleum Directorate (NPD)**

NPD acts as an advisory body to the MPE, and also plays a vital role in the management of petroleum resources, as it exercises administrative authority over the exploration and production of petroleum resources in Norway.[120] NPD stipulates the regulations and decides on them.[121]

[117] Also, the Ministry of Petroleum (MPE), ensures the regulatory frameworks are followed when petroleum activities are carried out. While the Norwegian Petroleum Directorate (NPD), ensures the proper management of the petroleum resources. See Ibid., 284-285.

[118] See Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27; Ministry Energy, 'Ministry Of Petroleum And Energy' (*Government.no*, 2019) <https://www.regjeringen.no/en/dep/oed/id750/> accessed 26 July 2019. See also 'State Organisation Of Petroleum Activities - Norwegianpetroleum.No' (*Norwegianpetroleum.no*, 2019) <https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activites/> accessed 26 July 2019 and Ministry Energy, 'Ministry Of Petroleum And Energy' (*Government.no*, 2019) <https://www.regjeringen.no/en/dep/oed/id750/> accessed 26 July 2019.

[119] Ibid.

[120] See Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27; 'Norwegian Petroleum Directorate' (*Npd.no*, 2019) <https://www.npd.no/en/> accessed 26 July 2019 and 'State Organisation Of Petroleum Activities - Norwegianpetroleum.No' (*Norwegianpetroleum.no*, 2019) <https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activites/> accessed 26 July 2019.

[121] Ibid.

3. **Petoro AS**

   Petoro AS on behalf of the Norwegian government handles the State's Direct Financial Interest (SDFI).[122] After the privatisation of Equinor, Petoro was tasked with managing Norway's holdings in various joint ventures, monitor the sale of petroleum from the SDFI and manage the finances of the SDFI.[123]

4. **<u>Gassco AS</u>**

   This government entity is tasked with the transportation of gas from the Norwegian continental shelf.[124]

5. **<u>Equinor ASA</u>**

   Equinor is an international petroleum company. The Norwegian state owns over 60% of this petroleum company, and it is listed in the Oslo and New York stock market, as an international petroleum company.[125]

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[122] Petoro's major tasks are:

- Manage the State's direct participating interests in the joint ventures where the State is represented at any given time.
- Monitor Equinor's marketing of the petroleum that is produced from the State's direct participating interests in line with the marketing instructions given by the Ministry of Petroleum and Energy to Equinor.
- Financial management, including keeping accounts for the State's direct participating interests.

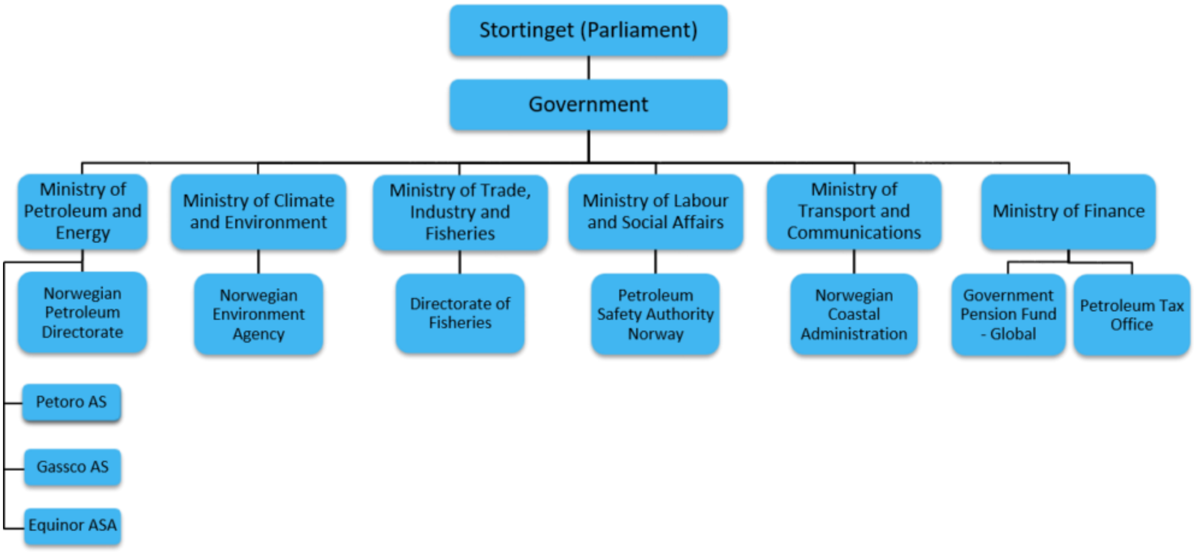
See 'Petoro's Key Duties' (*Petoro.no*, 2019) <https://www.petoro.no/about-petoro/main-tasks> accessed 26 July 2019. See also, Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27;

[123] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 93;

[124] See 'Gassco' (*Gassco.no*, 2019) <https://www.gassco.no/en/> accessed 26 July 2019.

[125] See 'Equinor' (*Equinor*, 2019) <https://www.equinor.com/en.html> accessed 26 July 2019.
See also, Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27; 'State Organisation Of Petroleum Activities - Norwegianpetroleum.No' (*Norwegianpetroleum.no*, 2019) <https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activites/> accessed 26 July 2019.

Figure 7: Norwegian Petroleum Industry Structure



Source: culled from the Ministry of Petroleum and Energy.[126]

The figure details a streamlined sector organisation, although this study will not be analysing the different players in the Norwegian petroleum industry, as the main focus will be on Equinor. Furthermore, it is worth mentioning that all the different government organisations play a vital role, and the focus on Equinor does not disparage the key roles which the other organisations play.[127]

6.3.2 Nigerian Petroleum Sector Organisation

Akinrele contended that regulating the petroleum sector, upon which the Nigerian government, its political system, elites and its commerce depend upon has been particularly challenging.[128] Contentiously, the assertion did not mention the people of Nigeria, which suggests that the petroleum industry of Nigeria does not create any significant value for the Nigerian general populace. The export of crude seems

[126] Ministry Energy, 'Ministry Of Petroleum And Energy' (*Government.no*, 2019) <https://www.regjeringen.no/en/dep/oed/id750/> accessed 26 July 2019.

[127] Other Sector organisations are: The Ministry of Labour; The Petroleum Safety Authority Norway (PSA); The Ministry of Finance; The Petroleum Tax Office; The Directorate of Customs and Excise; Government Pension Fund-Global; The Ministry of Fisheries and Coastal Affairs; The Norwegian Coastal Administration; The Ministry of Environment and The Climate and Pollution Agency. See 'State Organisation Of Petroleum Activities - Norwegianpetroleum.No' (*Norwegianpetroleum.no*, 2019) <https://www.norskpetroleum.no/en/framework/state-organisation-of-petroleum-activites/> accessed 26 July 2019.

[128] Adedolapo A. Akinrele n 53.

to be the focal point of the Nigerian upstream petroleum sector, and the upstream seems to be most active in the country's petroleum sector.[129]

According to Akinrele, Nigeria's petroleum industry is principally regulated under legislation enacted in the 1950s and the 1960s.[130] Albeit, that is why the country is looking to change some of the legislation governing the petroleum sector. He further claimed that these legislations and the institutional, regulatory, and policy structures under them, which may have been suitable at the time, failed to exact maximum benefit from an industry with huge potential, and had instead fuelled corruption and helped erode institutional integrity.[131]

The Petroleum 1969 Act was the first statutory regime and framework that defined the structure of the oil and gas sector of Nigeria.[132] This act structured the legal relationships in the country's petroleum industry.[133] As stipulated in the Nigerian 1999 Constitution,[134] the Petroleum Act also, vests the ownership and control of all petroleum resources in Nigeria, under Nigeria's territorial waters or lands that form part of Nigeria's continental shelf or part of Nigeria's Exclusive Economic Zone (EEZ) on the state.[135] When it comes to petroleum development in Nigeria, the constitution is the guiding principle underlying the petroleum resources sector, and also the mineral sector.[136]

Other relevant authorities that govern and regulate the Nigerian petroleum sector are:

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[129] See Israel Aye, Laura Alakija and others, Nigeria in Christopher B. Strong (ed.), *The Oil And Gas Law Review* (7th edn, Law Business Research Ltd 2019) 249.
[130] Adedolapo A. Akinrele n 53.
[131] Estimates of Nigeria's undiscovered gas reserves range from 300 – 600 trillion cubic feet. Nigeria has therefore been described largely as a gas province with some oil. See Adedolapo A. Akinrele n 53.
[132] Ibid.
[133] The legal relationships are, joint venture agreements, participation agreements, production sharing agreements and service contracts. See Yinka Omorogbe, 'The Legal Framework for The Production Of Petroleum In Nigeria' (1987) 5 Journal of Energy & Natural Resources Law; Yinka Omorogbe, *The oil and gas industry: Exploration and production contracts* (Malthouse Press 1997) 37 – 38; Adedolapo A. Akinrele n 53.
[134] See Section 44 (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended, CFRN).
[135] Section 1 Petroleum Act, Cap P10, Laws of the Federation of Nigeria (LFN) 2004. See also Ogugua V.C. Ikpeze and Nnamdi G. Ikpeze n 53.
[136] Wumi Iledare n 64.

1. **The Ministry of Petroleum Resources**

   The Ministry regulates the petroleum sector of Nigeria, also tasked to formulate sound policies for the state's petroleum industry and to see that these policies are adequately implemented.[137] This ministry is headed by the Minister of State, Petroleum Resources.[138] Also at present, the Nigerian President in his capacity as the Minister of Petroleum Resources**.**[139] It is expected that the Minister of State, petroleum resources who is viewed as a junior minister runs the day to day activity of the ministry.

2. **NNPC**

   Established on April 1st 1977 as a state corporation to engage in all levels of petroleum activities in the state's petroleum industry.[140] According to Onoh, NNPC was a result of a merger between the Nigerian National Oil Company (NNOC) and some departments of Mines and Power.[141]

3. **Department of Petroleum Resources (DPR)**

   This government department performs the role of Nigerian petroleum industry regulator, by ensuring that the petroleum laws, regulations, and guidelines are adhered to.[142]

In regulating the downstream sector, the Petroleum Products Pricing Regulatory Agency (PPPRA) has the mandate.[143] The Federal Ministry of Environment (FMoE) has the mandate to ensure environmental protection, sustainable development and natural resources conservation.[144] Finally, the mandate for industrialization

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[137] See 'Ministry Of Petroleum Resources | Federal Republic Of Nigeria' (*Petroleumresources.gov.ng*, 2019) <https://petroleumresources.gov.ng> accessed 8 November 2019.

[138] See 'Hon. Minister Of State | Ministry Of Petroleum Resources' (*Petroleumresources.gov.ng*, 2019) <https://petroleumresources.gov.ng/about/hon-minister-of-state/> accessed 11 November 2019.

[139] See 'Nigeria's Buhari Assigns Cabinet Portfolios, Appoints New Oil Minister' (*U.K.*, 2019) <https://uk.reuters.com/article/uk-nigeria-politics/nigerias-buhari-assigns-cabinet-portfolios-appoints-new-oil-minister-idUKKCN1VB1FP> accessed 12 November 2019 and Gbolahan Elias and Okechukwu J Okoro, 'Nigeria' in David L. Schwartz (Ed.), *The Energy Regulation And Markets Review* (8th edn, Law Business Research Ltd 2019) 254.

[140] See Section 5 Nigerian National Petroleum Corporation Act Chapter N123 2004. See also, 'NNPC' (*Nnpcgroup.com*, 2019) <https://www.nnpcgroup.com/Pages/Home.aspx> accessed 8 November 2019.

[141] J. K Onoh (n 58) 36.

[142] See 'DPR – Oil & Gas Regulatory Agency' (*Dpr.gov.ng*, 2019) <https://www.dpr.gov.ng> accessed 8 November 2019.

[143] See 'PPPRA Nigeria' (*pppra.gov.ng*, 2019) <http://pppra.gov.ng> accessed 8 November 2019.

[144] See 'Federal Ministry Of Environment – Environment Is Your Life, Keep It Safe' (*Environment.gov.ng*, 2019) <https://environment.gov.ng> accessed 8 November 2019.

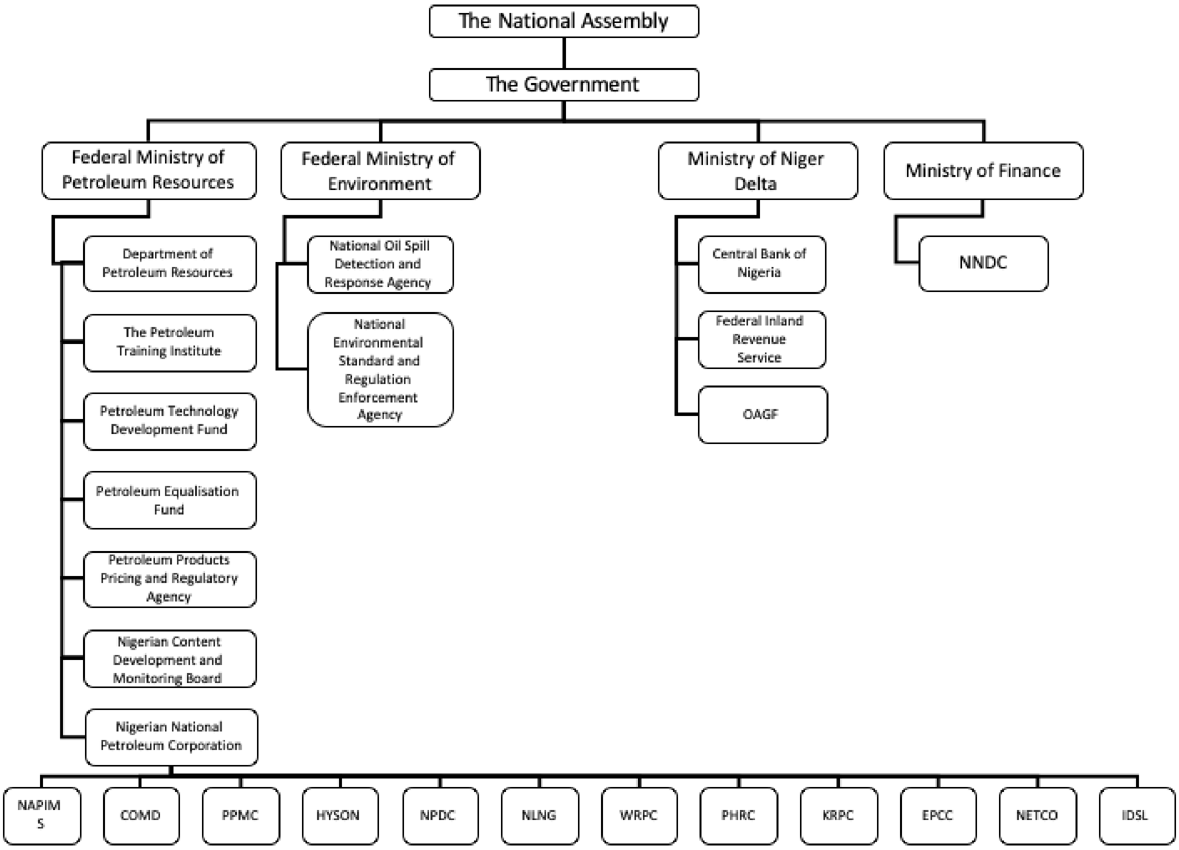
and increasing in-country capacity was delegated to the Nigerian Content Development and Monitoring Board (NCDMB)[145] Other existing legislation that regulates the Nigerian petroleum industry includes Deep Offshore and Inland Basin Production Sharing Contracts Act; Nigeria Oil and Gas Industry Content Development Act 2010; Petroleum Profits Tax Act, and Associated Gas Re-injection Act.[146] In the study, the main focus is on the Petroleum Act 1969, and analysis of the proposed PIGB.

The figure below is an attempt to capture the present structure of the Nigerian petroleum industry.

Figure 8: Nigeria's Petroleum Sector

[145] See 'Nigerian Content Development And Monitoring Board – Building Local Capacities In The Nigerian Oil And Gas Industry' (*Ncdmb.gov.ng*, 2019) <https://ncdmb.gov.ng> accessed 8 November 2019.
Also, with regards to local content the Nigerian Oil and Gas Industry Content Development Act 2010 (NOGICD) (Nigerian Content Act): *Key Implementing Institution* - Nigerian Content Development and Monitoring Board (NCDMB).

[146] See Edoabasi Udo n 61. See also, Israel Aye, Laura Alakija and others, Nigeria in Christopher B. Strong (ed.) (n 127) 250-251.



Source: author's own based on available data.[147]

The Nigerian petroleum sector has many organisations linked to it, in particular the NNPC in carrying out its statutory and commercial objectives among other ventures has over 13 subsidiaries.[148] For this study, a full discussion of them will not be carried out, as the sole aim of this study is to assess how NNPC's upstream activities add value to the petroleum sector and in turn create value for the people of Nigeria. The decision, not to discuss some of these organisation in the upstream sector of Nigeria in no manner or form downplays their role in the country's petroleum sector.

[147] See Yinka Omorogbe n 54; 'Nigeria - Government And Society' (*Encyclopedia Britannica*, 2019) <https://www.britannica.com/place/Nigeria/Government-and-society> accessed 20 November 2019; 'Ministry Of Petroleum Resources | Federal Republic Of Nigeria' (*Petroleumresources.gov.ng*, 2019) <https://petroleumresources.gov.ng> accessed 8 November 2019, and Shweta Jadhav, 'Petroleum Resources Management: The Role Of Institutional Frameworks And Fiscal Regimes In Value Creation: A Comparative Analysis For Norway And Nigeria' (Double Postgraduate Degree, Norges Handelshøyskole and HEC Paris 2014).

[148] See 'NNPC' (*Nnpcgroup.com*, 2019) <https://www.nnpcgroup.com/Pages/Home.aspx> accessed 8 November 2019. See also, Israel Aye, Laura Alakija and others, Nigeria in Christopher B. Strong (ed.) (n 127) 249-250.

6.3.3 Petroleum Sector Organisation: Comparative Analysis

Following the earlier section, it can be put forward that to achieve success in a petroleum sector this role cannot be left to the states' NOC alone, as different government organisation play vital roles as well. The state also has a vital role to play, in achieving economic development and value creation through the exploitation of petroleum resources. Petroleum resources in Norway are seen to belong to the people – Norwegian society. As such the state sets out to create as much value as possible through the exploitation of these natural resources.[149] Moses and Letnes described Norway as a 'developmental state'[150] as they evolved from a liberal democratic state (1884-1935) to a social democratic state after 1935.[151] Norway's heavy dependence on professional bureaucracy and parliamentary committees could be suggested as contributing to the vital roles Norway plays as a developmental state.[152]

According to Al-Kasim Norway strengthened the state's involvement in the regulatory and business level of their petroleum industry by establishing Equinor and NPD in 1972.[153] When a state becomes directly involved with the activities of the petroleum sector and takes political control for the development of the petroleum industry, Austvik calls this political entrepreneur.[154] As a political entrepreneur, the state can use legal and political interventions and regulative measures to its set goals for the petroleum sector. The mixture of strategies that

[149] See Norwegian Ministry of Petroleum and Energy / Norwegian Petroleum Directorate n 27; Norwegian Ministry of Petroleum and Energy/ Norwegian Petroleum Directorate, 'Facts 2013: The Norwegian Petroleum Sector' (2013).

[150] A developmental state is one that uses the states natural resources to meet the needs of the people, while playing an active role in shepherding the economic development. See Omano Edigheji, 'A Democratic Developmental State In Africa ? A Concept Paper' [2005] Centre for Policy Studies <http://www.rrojasdatabank.info/devstate/edigheji.pdf> accessed 4 August 2019.
See also, Jonathon Wayne Moses and Bjørn Letnes (n 47) 47 and Omano Edigheji (ed.), *Constructing A Democratic Developmental State In South Africa: Potentials And Challenges* (HSRC Press 2010).

[151] Jonathon Wayne Moses and Bjørn Letnes (n 47) 43.

[152] Further, Moses and Letnes, stated that there were 3 important roles the Norwegian Developmental State played:

> (1)It provides expertise to policymakers that is not overly influenced by particular and vested interests; (2) it divides up political authority in a way that facilitates autonomy (and makes capture difficult); and (3) it provides access to alternative interests and an opportunity for these interests to contribute to the formulation of that policy.

See Jonathon Wayne Moses and Bjørn Letnes (n 47) 53-54.

[153] Farouk Al-Kasim (n 44) 66.

[154] See Richard Gordon and Thomas Stenvoll n 32 and Ole Gunnar Austvik, 'Landlord And Entrepreneur: The Shifting Roles Of The State In Norwegian Oil And Gas Policy' (2011) 25 Governance 315.

worked, and led to the success of their petroleum industry are characterised as political entrepreneurship.[155]

Ingen et al. further argued that Norway is a high-income petroleum country with robust governance institutions, like Equinor, which has assisted the government to focus their petroleum earnings on reducing the budget burdens of social insurance.[156] Setting up a NOC seems to be the first route taken by governments with abundant petroleum resources as suggested in chapter 3.[157] Although it could be contended, that why then is not possible for the government to use regulatory measures to achieve the state's set goals, as countries like the United States of America, and the United Kingdom are doing at present, rather than establish a NOC, with a strong resemblance to a non-profit corporation, as their goals are defined by the government, and not by the shareholders.[158] Arguably, Equinor could be seen as an independent corporation, free from government interference. However, going by the key concepts discussed earlier in this study, as long as the government of Norway has over 60 per cent of Equinor shares, it can politically influence the corporation's decision, as the government has the controlling shares.

Norway realised the benefits of establishing a NOC, especially during the early stages of petroleum sector development, as this assisted the state to achieve the national strategic goals,[159] which could be argued to be establishing its sovereign rights over its petroleum resources, resource nationalism – ownership and control.[160] The establishment of Statoil now Equinor by the Norwegian state was to ensure that the exploitation of their petroleum resources was for the "benefit of the whole nation" and this was set out in the Norwegian government's Ten Oil Commandments of 1972.[161] Also, National management and control, the build-up of a Norwegian oil community and state participation were important elements in

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[155] Ibid.
[156] Chiara van Ingen, Requier Wait and Ewert Kleynhans n 74.
[157] See Chapter 3 of this thesis.
[158] Ole Gunnar Austvik n 152.
[159] Ibid.
[160] See Chapter 4. See also Diderik Lund, 'State Participation And Taxation In Norwegian Petroleum: Lessons For Others?' (2014) 3 Energy Strategy Reviews 49.
[161] Arguably, these early choices explain why Norway ranks today as one of the world's best places to live and a world leader in many areas of the oil industry. See Ole Gunnar Austvik n 152. See also, 'An Industry For The Future - Norway's Petroleum Activities' (*Storting White Paper 28 (2010 -2011) Regjeringen.no*, 2012) <https://www.regjeringen.no/globalassets/upload/oed/petroleumsmeldingen_2011/oversettelse/chapter1_white_paper_28-2010-2011.pdf> accessed 16 November 2019.

the country's oil policy during the 1970s.[162] Hunter claimed that the participation of Equinor in the petroleum sector, allowed it to amass skills, knowledge and experience from the IOCs, as Equinor were initially limited to participation rights in all petroleum licences then.[163] Equally, in 1971 the 'Ten Oil Commandments'[164] laid out the principles of Norwegian petroleum policy.[165] It, therefore, became the priority of the state that the state participates actively in the offshore and onshore petroleum operations, this Al-Kasim termed 'Norwegianisation'.[166]

The Norwegian state, as a political entrepreneur integrated several instrument forms and roles, as they developed and created their petroleum sector.[167] According to Austvik, the Norwegian government opposed the liberal market model, whereby state participation would be reduced, and the private sector involvement increased, depending on the market trajectory.[168] Importantly, the Norwegian state increased the state's direct control over the petroleum sector.[169] This can be observed through its petroleum sector policies over the years, from

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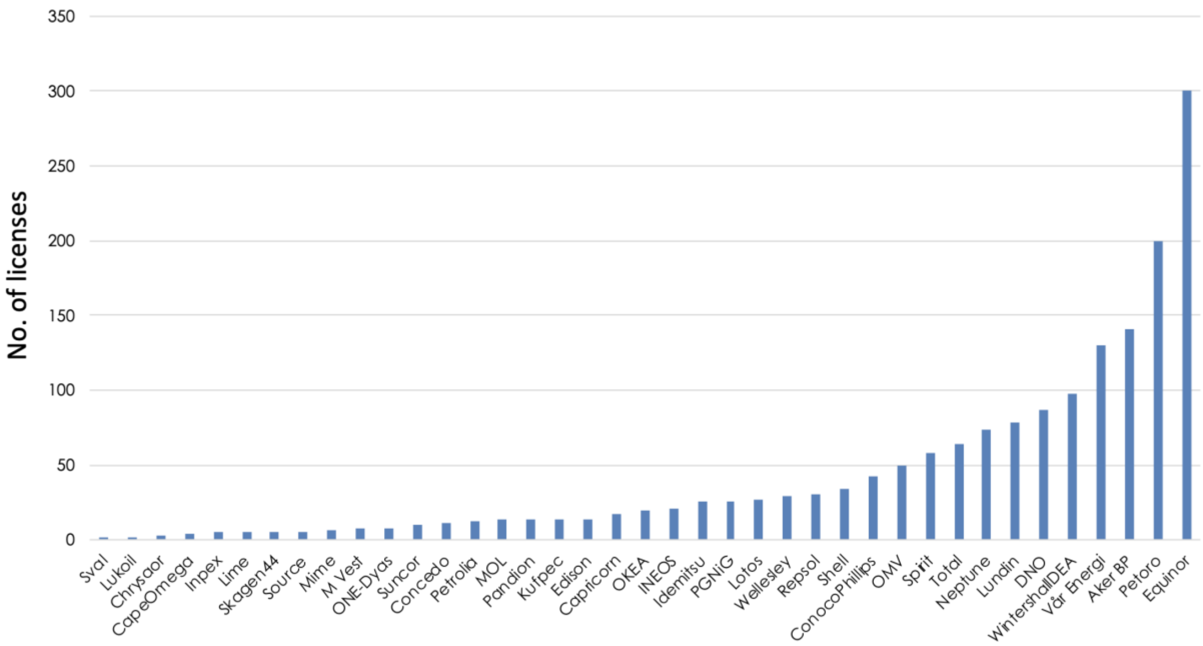
162 See 'Norway's Petroleum History' (*Norsk olje og gass*, 2019) <https://www.norskoljeoggass.no/en/about-us/oljehistorien/> accessed 25 July 2019.
163 Tina Hunter n 6.
164 Katarzyna Dośpial-Borysiak, 'Model Of State Management Of Petroleum Sector – Case Of Norway' (2017) 20 Interdisciplinary Political and Cultural Journal 97. See also, '10 Commanding Achievements - Norwegian Petroleum Directorate' (*Npd.no*, 2018) <http://www.npd.no/en/publications/norwegian-continental-shelf/no2-2010/10-commanding-achievements/> accessed 14 December 2018.
165 This was a set of goals and strategies that guided Norway's involvement in the development of petroleum resources throughout the value chain of the petroleum industry. Tina Hunter n 6.
166 See Farouk Al-Kasim (n 44) 66.
167 Ole Gunnar Austvik n 152.
168 Section 3-6 Petroleum Act No. 72 1996. See Ole Gunnar Austvik n 152. See also, Diderik Lund n 134.
169 According to Austvik the main policy elements of the Norwegian governments were:

> 1. Providing a national ideological and visionary platform for the industrial and social goals of petroleum activities as per the Ten Oil commandments;
> 2. Regulating and protecting the functioning of and framework for the domestic markets to support the Norwegian supply industry and oil companies in the build-up phase;
> 3. Providing a strong state controlled industrial and resource-management system […];
> 4. Establishing its own company, Statoil, with substantial preferential treatment and governmental control;
> 5. Engaging IOCs at an arm's length distance to acquire capital and competence;
> 6. Being engaged directly downstream in the sales of natural gas through Statoil […];
> 7. Developing a foreign policy that attempted to strike a balance between major international political powers, as represented by political allies in the International Energy Agency and economic interests in OPEC, and later with Russia;
> 8. Introducing a heavy system of taxation (78% of net profits), […];
> 9. Establishing the Petroleum Fund to decouple expenditures from earnings of state oil and gas revenues and to protect the country against Dutch disease;
> 10. Increasing state participation, when clipping Statoil's wings in 1984, establishing the GFU/FU system, by establishing Petoro and Gassco and the new tariff system Gassled in 2001.

All these goes to support the presence of the theories of resource nationalism – ownership and control, rentier state theory, albeit through their high tax system. See Ole Gunnar Austvik n 152.

the early stages of the sector to date. A highly developed licensing system which permitted IOCs and NOCs to explore, develop, and produce petroleum in accordance with the licenses, regulations and applicable laws, allowed for Joint Operating Agreement (JOA), and accounting agreement between these parties.[170] Austvik argued that Norway's policy measures were a mix of healthy interventions and direct involvement along with some liberal regions for some parts of the state NOC.[171] Important to observe that Norway did not embark on the full liberalisation of its petroleum sector, whereby the private sector determines the petroleum sector and political direction, the state continued to play a leading role in the development of the petroleum sector.[172] This is evidenced by the state selling some of its stake in Equinor, but most importantly, retaining the controlling shares.[173]

Figure 9: Number of Licences Per Company in the NCS



Source: culled from Rovik.[174]

[170] See Yngve Bustnesli, Norway in Christopher B. Strong (ed.), *The Oil And Gas Law Review* (7th edn, Law Business Research Ltd 2019) 262.
[171] See Ole Gunnar Austvik n 152.
[172] Ibid.
[173] See 'Our Shareholders - Equinor.Com' (*Equinor.com*, 2019) <https://www.equinor.com/en/investors/our-dividend/our-shareholders.html> accessed 8 November 2019.
[174] Thor Magnus Rovik n 40.

It is clear to see that the highest number of licences are held by the two-state entities. One can argue that Equinor is part private and part state-owned.

Although a NOC is a crucial tool to achieve value creation from petroleum resources, the state also has a very significant role to play. As ownership and control over these natural resources are usually stipulated under the laws of the state. This gives the government the backing to engage in productive ventures that would enable the state to benefit from their petroleum resources. As the oil-rich African nations of Angola, Algeria, Nigeria and Libya continue to demand more significant ownership stakes in the exploration and production of their natural resources, what will that mean for the operations of IOCs especially in periods of low oil prices?[175]

On the other hand, it can be argued that the creation of the Nigerian National Oil Corporation in 1971, and later the Nigerian National Petroleum Corporation (NNPC) marked the beginning of the nationalisation of the Nigerian petroleum industry.[176] Arguably, the move to nationalise British Petroleum assets by General Obasanjo had an anti-colonial element to it.[177] Furthermore, long before the nationalisation or the expression of the right of permanent sovereignty over natural resources by Nigeria, the country in the late 19th century had become a colony of Britain. Through the colonial Mineral Oil Ordinance of 1914, Britain stipulated that oil licences and leases be given to only British companies.[178]

According to Bamberg, it is essential to note that Nigeria became a British colony, when countries like Britain, France and Germany were the then European imperial powers who carved up the African continent into a multitude of colonies in what was termed then as 'the great scramble for Africa.[179] In later years when carrying out exploration, British Petroleum formed a partnership with Shell which later became Shell-BP in 1954.[180] Notwithstanding the fact that other companies like

[175] Robert F Buchanan and Syed Tariq Anwar, 'Resource Nationalism and the Changing Business Model for Global Oil' (2009) Journal of World Investment Trade 10(2), 241-254.
[176] Stefan Andreasson n 108.
[177] Ibid.
[178] James Bamberg, *British Petroleum And The Political Economy Of International Oil* (Cambridge University Press 2000) 109.
[179] Ibid.
[180] Ibid, 109 – 110.

Socony Mobil, Tennesee Nigeria, Amosseas and Gulf, Safrap and Agip entered into the exploration and production in the Nigerian upstream petroleum industry as competitors to Shell-BP, yet Shell-BP still accounted for three quarter of the crude production in Nigeria in 1970.[181]

One can say that the Nigerian petroleum industry is transforming with some planned changes in regulation and the implementation of new petroleum policies, mainly tied to the delayed passing into law of the Petroleum Industry Governance Bill. As a result, Andreasson contends that in the foreseeable future IOCs role in the petroleum sector of the country will diminish.[182] This assertion can be debated because at the moment Nigeria and their NOC (NNPC) cannot carry out large scale exploration and production; thus the reliance on IOCs for this will continue for the foreseeable future. One further step was taken by the government to rearrange the petroleum industry as stipulated in the approved National Petroleum Policy (NPP), and National Gas Policy (NGP) by the Federal Executive Council. A primary objective of these policies was to come up with ways to advance suitable commercial, institutional, legal and regulatory frameworks for the petroleum industry of the country.[183]

As part of the resource nationalism tide sweeping Africa, some of the Sub-Saharan African countries looking to expand their petroleum exploration and production, now seek to enact stronger legislation that would give them more control over their petroleum industry.[184] The NPP, therefore, takes centre stage in Nigeria's goal to use their petroleum resources to achieve economic growth, and not only use these resources as a means of revenue to the country.[185]
David Mares stated:

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[181] Ibid.
[182] Stefan Andreasson n 108.
[183] See 'Nigerian National Petroleum Policy' (*Petroleumindustrybill.com*, 2017) <http://www.petroleumindustrybill.com/wp-content/uploads/2017/07/National-Petroleum-Policy-Approved-by-FEC-in-July-2017.pdf> accessed 19 November 2019. See also Israel Aye, Laura Alakija and others, Nigeria in Christopher B. Strong (ed.) (n 127) 252.
[184] Stefan Andreasson n 108. Also, Omorogbe stated that the federal government's control over oil and gas resources was achieved when Nigeria was ruled by a military regime. This regime did not invest the revenues in creating conditions for sustainable development, this Omorogbe considered to be a catastrophic failure of public policy. Instead, the oil and gas resources became an instrument of politics. See Yinka Omorogbe (n 131) 37 – 38.
[185] See 'The National Petroleum Policy (NPP)' (*KPMG Assets.kpmg*, 2017) <https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/ng-the-national-petroleum-policy.pdf> accessed 19 November 2019.

> History matters. It is impossible to keep promising "we will do better next time" when centuries of natural resources exploitation have failed to provide benefits for the majority of a country's citizens.[186]

In vast contrast to the Norwegian way, which targets broad benefits from petroleum resources to its citizens, the Nigerian one seems to be beneficial to the Nigerian elite and ruling group. An agency that is content on serving foreign capital is the apt description of the Nigerian elites.[187] For example, PDVSA of Venezuela has had success over the years in exploiting the petroleum resources of Venezuela. However, it is evidenced that this exploitation has not benefitted the average citizen of the state, who in theory, the states NOC was operating for. Instead, the resources were only for the nations' elites and their international partners.[188] A similar situation can be observed in some other petroleum-rich developing states like Nigeria, where the benefit of its natural resource riches has not benefitted the average citizen.[189]

Singh suggested that the Nigerian government and its elites are heavily dependent on the rents from the IOCs, therefore, helping these groups to maintain their power and significance in the country.[190] Invariably, IOCs rents, act as a sustaining factor for these ruling group and elites of the country. Therefore, one wonders when will there be a transparent government entity like the NOC where all petroleum resource dealings are open to public scrutiny, would these rent-seeking systems then survive? The NOC would be involved in their commercial capacity in creating value for the people.

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[186] David R. Mares, 'Resource Nationalism And Energy Security In Latin America: Implications For Global Oil Supplies' (*James A. Baker III Institute for Public Policy Rice University*, 2010) <https://scholarship.rice.edu/bitstream/handle/1911/91767/EF-pub-MaresResourceNationalismWorkPaper-012010.pdf?sequence=1> accessed 10 April 2018.

[187] Godwin Onuoha, 'A 'Rising Africa' In A Resource-Rich Context: Change, Continuity And Implications For Development' (2015) 64 Current Sociology 277.

[188] See Charles Mcpherson and World Bank Group, 'National Oil Companies Evolution, Issues, Outlook national oil companies workshop current roles and future prospects' (World Bank Washington D.C. 2003); Daniel Hellinger, Resource Nationalism and the Bolivarian Revolution in Venezuela in Paul Alexander Haslam and Pablo Heidrich, *The Political Economy Of Natural Resources And Development* (Routledge Taylor & Francis Group 2016) 204 – 217; Nna Emeka J. Wokoro, 'Beyond Petroleum Production To Community Development: International Oil Companies As Proxy Governments' (2009) 5 Texas Journal of Oil, Gas, and Energy Law 323.

[189] Ibid.

[190] Nitya Singh, 'Nigeria's Elusive Quest For Democracy: Multinational Corporations And Sustenance Of Authoritarianism' (2011) 10 African and Asian Studies 209.

Uniquely, Smythe and Smythe's 1960 work on Nigerian elite groups still apply as they suggested that during colonialism - the British power and authority over the Nigerian elites influenced the pace and development of this group.[191] Therefore, this means that the Nigerian economy is still susceptible to the interests of its elites or political groups and because the state does not have adequate mechanisms that can guarantee the state's autonomy, especially from these groups.[192] Is it that the machinery is not used, or that the ones on the ground are not effective?

To identify these mechanisms, the legal regime regulating the ownership and control of natural resources in Nigeria are; the Constitution,[193] Nigerian Minerals and Mining Act,[194] and the Petroleum Act,[195] amongst others and in all, the ownership of all-natural resources are vested in the state.[196] There is an on-going debate between some scholars over the meaning of the ownership of natural resources, whether it should be owned by the people on which these resources are located on their land, or it should be for the benefit of the country as a whole.[197] This study will avoid confusing the reader by building its analysis using the present judicial interpretation of the above stated legal frameworks, as it is thus justified since it is the present judicial position in Nigeria.[198] When it comes to the issue of ownership and control in the Nigerian petroleum industry Cyril Obi's stated:

> [...] although the Nigerian state has continued to assert its ownership and access roles, actual control still resides externally

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191 Hugh H. Smythe and Mabel M. Smythe, *The New Nigerian Elite* (Stanford University Press 1960) 121-136.
192 See Godwin Onuoha n 183.
193 See Section 44 (3) Constitution of the Federal Republic of Nigeria (as amended, CFRN) 1999.
194 Section 1 (1) of Nigerian Minerals and Mining Act, 2007.
195 Section 1 Petroleum Act, Cap P10, Laws of the Federation of Nigeria (LFN) 2004.
196 See Lanre Aladeitan, 'Ownership and Control of Oil, Gas, and Mineral Resources in Nigeria: Between Legality and Legitimacy' (2012) 38 Thurgood Marshall Law Review 159. See also, Ekhator Osa Eghosa, 'Public Regulation Of The Oil And Gas Industry In Nigeria: An Evaluation' (2016) 21 Annual Survey of International and Comparative Law 43 and Theodore Okonkwo, 'Ownership And Control Of Natural Resources Under The Nigerian Constitution 1999 And Its Implications For Environmental Law And Practice' (2017) 6 International Law Research 162.
197 See Ekhator Osa Eghosa n 192. See also, Edwin Egede, 'Who Owns The Nigerian Offshore Seabed: Federal Or States? An Examination Of The Attorney General Of The Federation V. Attorney General Of Abia State & 35 Ors Case' (2005) 49 Journal of African Law 73.
198 See *Attorney-General of the Federation v Attorney-General of Abia State & 35 others* [2002] SC, 6 NWLR (pt. 764) 542.

> in the hands of the international oil companies: Shell, Chevron Texaco, Exxon Mobil, Total and Eni.[199]

The above statement aligns with the claims of this study, as real control of petroleum resources is handed over to the IOCs. Firm control will mean the control of petroleum at its most critical level, which is the production phase of these petroleum resources.[200] For example, the recent admission by the Nigerian Minister for Petroleum that the country lost close to $60 Billion to the non-enforcement of the terms of the Production Sharing Contracts (PSC) it went into with IOCs,[201] shows that the NOC or the Ministry of Petroleum, and by extension the government does not have full control over its resources, the same resources that the economy mainly relies on.[202]

Mahdavi claimed that government intervention in the petroleum sector through nationalisation should not be seen as the main reason for the petroleum sector performing poorly.[203] NOCs should adopt the Norwegian model of separation of powers in the petroleum sector, and most importantly a petroleum sector where the NOC competes with IOCs to bid for oil fields to explore and produce.[204] The goal should be to have NNPC progress to a level where it can competently carry out the activities of these IOCs. In the same way, Graham and Ovadia suggested that the articulation of what the state wants to achieve and its vision for its petroleum sector by the government through a policy document should be paramount for the state when establishing a governance framework for the petroleum sector.[205] Professor Steven, in his findings, affirmed the assertion that the petroleum sector of any country is susceptible to political interference, and especially a political system that can be argued as being dysfunctional.[206]

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[199] Cyril I. Obi, 'The Petroleum Industry: A Paradox Or (Sp)Oiler Of Development?' (2010) 28 Journal of Contemporary African Studies 443-457.
[200] Ibid.
[201] See Ejiofor Alike, 'Kachikwu: Nigeria Lost $60bn to Non-enforcement of PSCs with Majors' ThisDay (Lagos, 7 August 2017) <https://www.thisdaylive.com/index.php/2017/08/07/kachikwu-nigeria-lost-60bn-to-non-enforcement-of-pscs-with-oil-majors/> accessed 8 September 2019.
[202] See Cemre Nur Öztürk, 'Ownership And Control Of Oil: Explaining Policy Choices Across Producing Countries' (2016) 12 Review of International Law and Politics 219.
[203] Paasha Mahdavi, 'Institutions And The "Resource Curse": Evidence From Cases Of Oil-Related Bribery' [2019] Comparative Political Studies.
[204] Ibid.
[205] Emmanuel Graham and Jesse Salah Ovadia n 111.
[206] See Paul Stevens, 'Kuwait Petroleum Corporation: Searching For Strategy In A Fragmented Oil Sector' [2008] PESD Stanford Working Paper 78

Ovadia in his work on Nigerian local content policies, and the struggle for petroleum resource-rich states to control their natural resources has termed policies of 'Nigerianisation' as a form of local content policy, as it encouraged the employment of Nigerians in the petroleum sector and indigenous ownership through different regulations and quotas.[207] How well these policies have assisted the economic growth and development in Nigeria is yet to be seen. One can argue that the problem might be in the implementation of these policies. Furthermore, Jesse Ovadia asserted that the effective control of the petroleum industry that Nigeria sought through these policies eventually failed. Maybe the main aim all along was to improve the ability of the elite and ruling class in the country to capture more petroleum rent.[208] For instance, these policies led to the practice of 'fronting' where many Nigerian citizens acted as a front for IOCs or join venture while both control of operations and ownership of the majority of the profits remained with the IOCs, while the equity share given to the Nigerian was written off as cost of doing business.[209]

6.3.3.1 Role of the State

Positive remarks have been made about the Norwegian petroleum legislation throughout this study. These comprehensive legislations, according to Al-Kasim, came about as Norway carefully delayed the process until a thorough grasp of petroleum operations was acquired.[210] Therefore, Norway's petroleum legislations were not reactive but reflected. One might argue that a combination of both reactive and reflective responses in regulating their petroleum industry was used, as gleaned from the history of the Norwegian petroleum industry. In other words, as petroleum resources were discovered, the state reacted, first by declaring sovereignty over their petroleum resources.[211] After that, other legislation was

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<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.573.3180&rep=rep1&type=pdf> accessed 9 October 2019.

[207] Jesse Salah Ovadia, 'Local Content Policies And Petro-Development In Sub-Saharan Africa: A Comparative Analysis' (2016) 49 Resources Policy 20-30.

[208] Ibid. See also Ike Oguine, 'Nigerian Content In The Nigerian Petroleum Industry: Legal And Policy Issues' (2011) 29 Journal of Energy & Natural Resources Law 405-430.

[209] Ibid.

[210] He termed it the gradual legislation. See Farouk Al-Kasim (n 44) 84, 246.

[211] Farouk Al-Kasim (n 44) 160. See also Berit Kristoffersen and Stephen Young, 'Geographies Of Security And Statehood In Norway's 'Battle Of The North'' (2010) 41 Geoforum 577.

carefully and expertly formulated, although it came gradually**.** This Al-Kasim suggested, helped Norway master the role of being a competent operator through Equinor and Norsk Hydro.[212]

Usually, regulations complement laws and contracts, as they focus mainly on technical and operational matters in the petroleum sector.[213] Said to be inflexible, the 'detailed content approach' according to Cameron and Stanley is the regulation design form used by the Norwegian government in regulating their petroleum sector, especially the upstream sector.[214] This particular approach codifies specific laws, regulations and most provisions that are required in carrying out petroleum operations in Norway.[215] No matter the argument against this form of regulation, one might argue it has worked for Norway, as the country continues to benefit from their petroleum resources. The gradual legislation paid off.

On the other hand, one might argue that the Nigerian government regulates its petroleum sector with the same approach.[216] The key advantages of the detailed content approach, which includes transparency in the licensing regimes which further insures against corrupt practices, and has not been evident in the petroleum sector of Nigeria. Nigeria's petroleum Minister plays a vital role in the petroleum sector, but on many occasions the overriding powers of the President, always come into play, especially if the President plays a vital role of petroleum minister.[217] This deters the advantages that can be gained from the separation of functions, which arguably made the Norwegian petroleum sector what it is today.

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[212] Therefore, the gradual approach was justified. See Farouk Al-Kasim (n 44) 85-87.

[213] These technical and operational matters might include, licensing procedures, contract area, monitoring, inspection, and control of operations. Also, might include fiscal elements, such as royalty definitions, surface rents, fees, and fines. See Peter Cameron and Michael Stanley (n 107) 97-98.

[214] Ibid, 69.

[215] Usually, supplemented by highly detailed guidance notes, which offers official interpretations for key issues and provisions. See Peter Cameron and Michael Stanley (n 107) 69.

[216] The design options are; Detailed Content Approach, Individually Legislated Agreements and Hybrid Approach. See Peter Cameron and Michael Stanley (n 107) 69-70.

[217] See 'Nigerian President Muhammadu Buhari To Become Oil Minister In Own Cabinet' (*the Guardian*, 2015) <https://www.theguardian.com/world/2015/sep/30/nigerian-president-muhammadu-buhari-to-become-oil-minister-in-own-cabinet> accessed 16 November 2019.

6.3.3.2 Ownership and Control

According to Corrigan, at the centre of most debates about resource curse sits the importance of the role played by the NOC or other institutions in the petroleum resource governance.[218] The institution – NOC must be strong enough to supervise the ownership, resource rents and the government's ability to exercise control over the exploitation of its petroleum resources.[219] Norway has supported the private initiative, but for how long? Norway took measures to make sure they retained ownership of their major industries, especially the petroleum sector, though not immediately, but future arrangements were put in place for the ownership of these sectors to revert to the government.[220] Today, many countries vest the ownership of petroleum resources in the state.[221]

It was important for the state to retain ownership, and the results of these steps speak for themselves. It can be argued that the Norwegian 10 Oil Commandments is a guideline or framework by the government that ensured the ownership and control of the petroleum resources by the Norwegian government, therefore it can be considered a form of resource nationalism policy, going by the thesis arguments. Further, in an attempt to make sense of what the idea behind the Norwegian system, Moses and Letnes stated that:

> […] the "Norwegian system" was that private initiatives should be supported by state loans, guarantees, or capital. Infrastructure (e.g., railway, telephone lines, telegraph, electricity) was to be established through private initiative and run by private interests during the initial period. Over time, however, and because of the government loans and guarantees, the state would eventually take over the operation and ownership of these activities. For Example, the Norwegian railway system was built by private firms, but its ownership eventually reverted back to the state.[222]

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[218] Caitlin C. Corrigan, 'Breaking The Resource Curse: Transparency In The Natural Resource Sector And The Extractive Industries Transparency Initiative' (2014) 40 Resources Policy 17.
[219] Ibid.
[220] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 47-49.
[221] Peter Cameron and Michael Stanley (n 107) 58.
[222] Norway's early concession laws (1906-1917), was calculated to ensure public ownership over natural resources. As these concession laws granted permission, for a period of time to companies. Known as *hjemfallsrett*, is based on two legal principles: (1) the German principle of *heimfall*, which means that land, or block, "falls" back to the state after a specific term; and (2) the common law tradition of *escheat*, where the property of someone who dies without an heir is transferred to the state. These concession laws ensured that the all exploitation rights return to the state, after a certain period of time, without compensation. Jonathon Wayne Moses and Bjørn Letnes (n 46) 48, 56.

The practicality of the same system working in Nigeria is one that can be debated. However, for the petroleum sector of the state, this form of arrangement can be used, especially when the states' NOC is not actively in control of the exploration and production of petroleum resources. The dependence on IOCs to run the majority of the operations of the upstream sector of the state means that the state cedes control to IOCs, as their NOC majorly acts as a rent collector. It raises the question of how can a state learn to handle these operations in the future if their NOC is not involved? Reliance on the private sector, cannot be the solution, as this has been clear since the first commercial well was drilled in Nigeria.[223]

In 1971 an industrial committee report to the Norwegian Parliament, advised the government to secure government control of all petroleum activities, create a state oil company that could manage Norway's economic interests in the extraction of the petroleum resources, and the establishment and support of domestic petroleum industry.[224] As the advantages of democratic control and national sovereignty were primary elements of the Norwegian government's policy over the state's petroleum sector.[225] The demands in this industrial committee white paper came to be known as the 10 Oil Commandments. In other words, one can say that Equinor became a tool of control over the state's petroleum resources. One cannot deny the importance of state control over its petroleum resources, as Norway deemed it an essential component in its successful management of their petroleum resources. Further emphasis was made in another report by the Royal Norwegian Ministry of Finance on the need for Norway to maintain national control over their petroleum resources.[226] Further, the Royal Norwegian Ministry of Finance chapter was entitled "Democracy and Control". It

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[223] See Chapter 4 of this thesis.

[224] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 82. See also, The Ministry of Industry, 'St. Meld. Nr. 76 (1970-71)' (Ministry of Industry 1970) <https://www.stortinget.no/no/Saker-og-publikasjoner/Stortingsforhandlinger/Lesevisning/?p=1970-71&paid=3&wid=c&psid=DIVL418&pgid=c_0237> accessed 6 August 2019 and Ministry of Industry, 'Report No. 76 To The Norwegian Storting (1970-71): On The Exploration For And Exploitation Of Submarine Natural Resources On The Norwegian Continental Shelf Etc.' (Ministry of Industry 1970) <https://www.nb.no/items/7ef8216ce5b21b3268834393ed59cfe0> accessed 6 August 2019.

[225] Ibid.

[226] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 83-84 and The Royal Norwegian Ministry of Finance, 'St. Meld. Nr. 25 (1973-74)' (The Royal Norwegian Ministry of Finance 1973) <https://www.stortinget.no/no/Saker-og-publikasjoner/Stortingsforhandlinger/Lesevisning/?p=1973-74&paid=3&wid=c&psid=DIVL658&pgid=c_0371> accessed 6 August 2019.

was to ensure that the wealth from petroleum resources should be used to advance "a qualitatively better society".[227]

According to Moses and Letnes, the 1979 White paper – St. meld. Nr. 53 (1979-80)[228] outlined further steps in effective petroleum resource management, and further strengthened Norway's approach to petroleum resource management in a few underlying principles.[229] To elaborate, the Norwegian Labor Party took a more activist approach in reinforcing four fundamental principles of the white paper, and these were: maximise the economic gain from resources; play a part in the state's social and economic development; create and uphold strong environmental and safety standards and a calculated slow, and careful development of these resources.[230]

Local Content Policies

According to Mckinsey studies, today, the legal requirements of local content are used in countries that hold about 90% of the world's petroleum reserves.[231] Local content provisions are now more and more being added through legislation, regulations, bidding practices and contracts in the legal frameworks of resource-rich countries, especially the petroleum-rich ones.[232] The fundamental goal of these policies is to increase the domestic private sector, job creation, transfer of technology, and to establish a local competitive labour force.[233] Although, today, not all countries achieve these local content goals. According to Marcel et al., the process of developing a local content policy should involve the following steps:

[227] Ibid.

[228] See 'St. Meld. Nr. 53 (1979-80)' (1979) <https://www.nb.no/items/bd7b1efdc9d4fde3d2933915c3b037ce?page=0&searchText=St.%20meld.%20nr.%2053%20(1979-80)> accessed 7 August 2019.

[229] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 84-85.

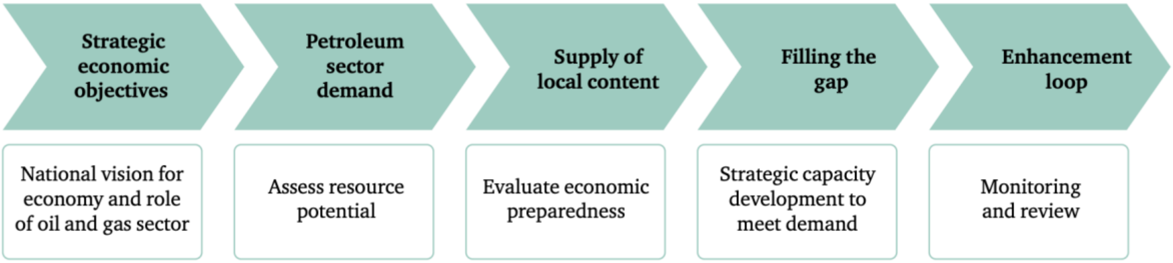
[230] Ibid.

[231] See Richard Dobbs and others, 'Reverse The Curse: Maximizing The Potential Of Resource-Driven Economies' (*McKinsey & Company*, 2013) <https://www.mckinsey.com/industries/metals-and-mining/our-insights/reverse-the-curse-maximizing-the-potential-of-resource-driven-economies> accessed 24 February 2020.

[232] See Columbia Center on Sustainable Investment Survey of Local Content Laws and Requirements in some countries: 'Local Content Laws & Contractual Provisions' (*Columbia Center on Sustainable Investment (CCSI)*, 2020) <http://ccsi.columbia.edu/work/projects/local-content-laws-contractual-provisions/> accessed 24 February 2020.

[233] Ibid

Figure 10: Local content policy steps



Source: culled from Marcel et al. (Chatham House).[234]

The 1970s and 1980s saw Norway successfully develop these policies to amplify the economic benefit of the exploitation of their natural resources, especially in their petroleum sector, thus leveraging the activities of the industry to generate economic opportunities for the state.[235] The Mckinsey Global Institute identify the six areas of the resource value chain and countries that are performing well, this evidences Norway's petroleum sector as an excellent example among other countries, but Nigeria was not identified as a well-performing country.[236]

In Nigeria and other West African petroleum producing countries, local content policies and legislation have become popular amongst resource-rich developing countries and is regarded as an initiative for these governments to increase the economic benefits from the exploitation of their natural resources.[237]

[234] Valérie Marcel and others, 'A Local Content Decision Tree For Emerging Producers' [2016] Chatham House <https://www.chathamhouse.org/sites/default/files/publications/research/2016-07-13-local-content-decision-tree-marcel-tissot-paul-omonbude.pdf> accessed 24 February 2020.

[235] See Valérie Marcel and others n 228.

[236] The 6 areas of the resource value chain:

1. Institutions and Governance
2. Infrastructure
3. Fiscal Policy and Competitiveness
4. Local Content Development
5. Spending the Windfall
6. Economic Development

See Richard Dobbs and others n 225. See also, CCSI's survey of local content laws and provisions in Norway, 'Local Content: Norway - Petroleum' (*Columbia Centre on Sustainable Investment (CCSI)*, 2020) <http://ccsi.columbia.edu/files/2017/07/Local-Content_Norway_Nov2016.pdf> accessed 24 February 2020.

[237] Local content policies and legislations have been adopted by at least 11 Sub-Saharan African countries for their petroleum industries. See Siri Lange and Abel Kinyondo, 'Resource Nationalism And Local Content In Tanzania: Experiences From Mining And Consequences For The Petroleum Sector' (2016) 3 The Extractive Industries and Society 1095; Berryl Claire Asiago, 'Fact Or Fiction: Harmonising And Unifying Legal Principles Of Local Content Requirements' (2016) 34 Journal of Energy & Natural Resources Law 337; Abdulkabir Niran Adedeji and others, 'The Role Of Local Content Policy In Local Value Creation In Nigeria's Oil Industry: A Structural Equation Modeling (SEM) Approach' (2016) 49 Resources Policy 61; Rafael Emmanuel "Manny" Macatangay, 'Optimal Local Content Requirement Policies For Extractive Industries' (2016) 50 Resources Policy

Nevertheless, there are still debates of the claimed value-added from the adoption of these local content policies, especially in developing petroleum-rich countries.[238] Local content policies were implemented to increase value through the exploitation of petroleum resources and advance linkages between the petroleum sector and the rest of the state's economy.[239] However, the historical evidence shows the opposite, as the countries that adopt them have failed to capture and retain value when exploiting their petroleum resources.[240]

Lange and Kinyondo suggested that in today's petroleum industry especially in African states, local content policies are the widespread form of resource nationalism and it can come in the form of quantitative or qualitative requirements.[241] The requirements for investors to procure a stipulated percentage of its workforce, goods and services within the petroleum industry of its host country can be defined as local content policies and legislation.[242] Adedeji

244-252; Adeolu O. Adewuyi and T. Ademola Oyejide, 'Determinants Of Backward Linkages Of Oil And Gas Industry In The Nigerian Economy' (2012) 37 Resources Policy 452-460; Ivar Kolstad and Abel Kinyondo, 'Alternatives To Local Content Requirements In Resource-Rich Countries' (2016) 45 Oxford Development Studies 406.

[238] As the activities of the petroleum industry are technical and capital intensive, the argument that developing petroleum-rich states are yet to benefit from the exploitation of these natural resources probably because of lack of significant petroleum industry foundation. This then begs the question, how can a petroleum-rich developing state, gain a strong petroleum industry foundation? Suggestions that a sound regulatory policies and good petroleum resources management is the answer to the question as that was the manner in which countries like Norway achieved success in their petroleum industry, as the successful exploitation of their petroleum resources played vital role in their domestic economic development. See Abdulkabir Niran Adedeji and others n 231.

[239] See Valérie Marcel and others n 228.

[240] Ibid. See also Jesse Salah Ovadia, *The Petro-Developmental State In Africa: Making Oil Work In Angola, Nigeria And The Gulf Of Guinea* (Hurst 2016).

[241] Quantitative requirements entail legal binding targets, which usually come in the form of volumes for example, the number of local staff to be employed or the number of contracts to be awarded to local suppliers. While qualitative requirements are mainly policy tools, legislations and contractual agreements that are aimed at enabling the training of staff and transfer of technology from the IOCs to the state in which they operate.
Siri Lange and Abel Kinyondo n 231.

[242] Ibid. See also, Jesse Salah Ovadia, 'The Making Of Oil-Backed Indigenous Capitalism In Nigeria' (2013) 18 New Political Economy 258-283; Rafael Emmanuel "Manny" Macatangay n 231 and Ivar Kolstad and Abel Kinyondo n 231.
Asiago put forward, that local content policies are performance requirements levied by a host government on IOCs or indigenous petroleum firms to source certain percentage of the required goods and services locally. See Berryl Claire Asiago n 231; Jesse Salah Ovadia, 'Local Content And Natural Resource Governance: The Cases Of Angola And Nigeria' (2014) 1 The Extractive Industries and Society 137; Jesse Salah Ovadia (n 170); Michael W. Hansen and others, 'The Economics And Politics Of Local Content In African Extractives: Lessons From Tanzania, Uganda And Mozambique' (2015) 43 Forum for Development Studies 201-228.
Many scholars have stressed that local content in states with flawed or weak institutions would lead to negative outcomes, and in particular, states distinguished for patronage and rent seeking conduct. Can maximization of rent be the best way for a state to benefit from its resources? See Siri Lange and Abel Kinyondo n 231; Charles Mcpherson and World Bank Group n 187.

and others contended that local content in Nigeria had a positive indirect effect on job creation through indigenous oil firms' participation and backward linkages.[243]

Imposition and implementation of these local content policies by national government remain a controversial subject.[244] While local content policies will help the state to address economic diversification and youth unemployment which are the pressing concerns for sustainable economic and social development in Nigeria.[245] However, Kolstad and Kinyondo proffered harder taxes on IOCs carrying out activities in a state's domestic petroleum industry and the use of taxes to promote domestic industrialisation and development in other areas of the economy as an alternative to local content.[246]

Ovadia, in analysing ways of promoting in-country value, observed that most importantly, the idea that enhanced local elite ownership is not necessarily developmental - however, preferably one that is reflective of the 'dual nature' of local content policies, thus instead of enhancing economic growth and development, has led to the enhancement of the flow of petroleum rent into the pockets of the ruling class and local elites.[247] To ensure that they continue to maintain their class power and status, the elite and ruling class ensure their political position by exerting a high level of direct and indirect control over the state and non-state institutions and economic growth and development in general.[248] Can one then say that the state controls these natural resources, or

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[243] Although, this local value creation from the implementation of local content policies in Nigeria were below average as the targets for the countries domestic petroleum industry have not been met.
See Abdulkabir Niran Adedeji and others n 231; Jesse Salah Ovadia (n 194); Adeolu O. Adewuyi and T. Ademola Oyejide n 231; Ike Oguine n 203; Sveinung Eikeland and Trond Nilsen n 76. See also CCSI's survey of local content laws and provisions in Nigeria: 'Local Content: Nigeria - Petroleum' (*Columbia Center on Sustainable Investment (CCSI)*, 2020) <http://ccsi.columbia.edu/files/2017/07/Local-Content_Nigeria_May2014.pdf> accessed 24 February 2020.

[244] The varying scope of definition of local content policies by governments vary, and are mostly broad. These requirements encapsulate other requirements that are not fundamentally local content policy from a trade viewpoint. For instance Nigeria points out that transfer of technology and formation of joint ventures form a part of its local content requirements while Ghana on the other hand, laid emphasis on the domestic ownership and equity participation of citizens in its local content policies. Berryl Claire Asiago n 231; The Nigerian Oil and Gas Content Development Act 2010; Jesse Salah Ovadia (n 194).

[245] Although local content requires IOCs and indigenous companies to act according to the policies, the role of the state is crucial in setting the local content policy and harmonising the implementation in its domestic petroleum industry. Jesse Salah Ovadia (n 194).

[246] Ivar Kolstad and Abel Kinyondo n 231.

[247] See Jesse Salah Ovadia (n 170); Jesse Salah Ovadia, 'The Dual Nature Of Local Content In Angola's Oil And Gas Industry: Development Vs. Elite Accumulation' (2012) 30 Journal of Contemporary African Studies 395-417.

[248] Ibid.

rather a group of people control these resources, especially when the average citizen of the state does not benefit from the exploitation of these natural resources, which rightly should be for the state as a whole?

It has been claimed that the ruling elites would instead pursue the most natural path for creating capital, rather than developing its productive sectors to a level of profitability. Instead, it will embark on rent-seeking ventures.[249] This, in many ways, paints the picture of the Nigerian upstream petroleum sector. The country resorted to local content policies as a means of ensuring the ownership and control of their petroleum resources. However, it seems they fall short of achieving the goals of making these petroleum resources beneficial to the country, rather than to a select group.

Local content policies are usually geared towards stimulating domestic manufacturing and employment creation. Hence the pressure is usually on IOCs to make a favourable contribution to the economic development in the state through their operations in the petroleum-rich developing state.[250] Which begs the question, should the state be wholly reliant on IOCs to make a positive contribution to the state? It has a NOC that can add positively to the growth of the economy if it were run and operated excellently and professionally.

Arguments for and against the use of local content policies by resource-rich developing countries, as a form of resource nationalism can cover a considerable body of work. Although the arguments that local content can contribute immensely to the economic development of a state, are reliable, economically for that to happen, certain conditions need to be met, which are; clear, unambiguous policies; the right institutions; absorptive capacity in local industry and willingness on the part of IOCs to outsource.[251]

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[249] Lindsay Whitfield and Lars Buur, 'The Politics Of Industrial Policy: Ruling Elites And Their Alliances' (2014) 35 Third World Quarterly 126-144. See also, Kiren Aziz Chaudhry, 'Economic Liberalization And The Lineages Of The Rentier State' (1994) 27 Comparative Politics 1.

[250] It is still debatable to as to whether the business practices of IOCS actually make a difference in terms of economic growth and development through the carrying out of the requirements of stipulated local content policies. Michael Zisuh Ngoasong, 'How International Oil And Gas Companies Respond To Local Content Policies In Petroleum-Producing Developing Countries: A Narrative Enquiry' (2014) 73 Energy Policy 471-479; Rafael Emmanuel “Manny” Macatangay n 231.

[251] In summarising the debates on effectiveness of local content policies, Hansen, Buur, Kjaer and Therkildsen in their work stated:

6.3.3.3 Resource Curse

Several studies have described the situation in which a country endowed with natural resources find themselves when these resources are poorly managed.[252] Clear reasoning suggests that when vast petroleum resource reserves are discovered in a state, they are valuable to the state's economy and also to the global petroleum industry, and should lead to economic development in these states, in contrast to states that are less endowed with these resources.[253] This has been termed the 'resource curse' and has been observed in some petroleum-rich states.[254] As these states discover a large amount of petroleum within their territory and start exporting these natural resources, it is logical to hope that, this would benefit the country endowed with petroleum resources, however, in reality, it is not always so. Instead, the petroleum-rich, and exporting state, fares poorly in comparison to a country that is not endowed with petroleum resources.[255]

Today, Norway seems to be one of the exceptions to the resource curse. Many have argued that Norway escaped the curse, by employing different measures to ensure that the petroleum resource revenues are used for the benefit of the Norwegian people, and not for a select few.[256] Whereas in Nigeria, it has been

> It cannot be decided in advance whether and how the pursuit of economic efficiency in local content can be balanced with elites' pursuit of power. Nonetheless, one thing that is certain is that the tendency for local content to be politicized and driven towards what we have called 'linkage patronage', with consequences for realizing the development potential of extractives, is a reality that policy makers, administrators, donors and IOC executives will have to relate to as they in the coming decade seek to mobilize extractive FDI for industrial and social development.

See Michael W. Hansen and others n 243; Austin Dziwornu Ablo, 'Local Content And Participation In Ghana's Oil And Gas Industry: Can Enterprise Development Make A Difference?' (2015) 2 The Extractive Industries and Society 320-327; Magnus Blomstrom and Ari Kokko, 'Foreign Direct Investment And Spillovers Of Technology' (2001) 22 International Journal of Technology Management 435. See also, Michael Warner, 'Do Local Content Regulations Drive National Competitiveness Or Create A Pathway To Protectionism' (*Extractives Hub*, 2011) <https://extractiveshub.org/servefile/getFile/id/1647> accessed 25 February 2020.

[252] See chapter 5. See also, 'The Resource Curse: The Political And Economic Challenges Of Natural Resource Wealth' (*NRGI Resourcegovernance.org*, 2015) <https://resourcegovernance.org/sites/default/files/nrgi_Resource-Curse.pdf> accessed 28 November 2019.

[253] See Glada Lahn and Paul Stevens, ' The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development' in Tony Addison and Alan Roe (eds) (n 82) 95.

[254] Albeit, debates over the roles of natural resources on an economy still abounds. Petroleum resources has proven over the years to be natural resource that can assist the state in achieving economic development, when managed effectively. See chapter 5 and Ramez Abubakr Badeeb, Hooi Hooi Lean and Jeremy Clark, 'The Evolution Of The Natural Resource Curse Thesis: A Critical Literature Survey' (2017) 51 Resources Policy 123.

[255] Erika Weinthal and Pauline Jones Luong, 'Combating The Resource Curse: An Alternative Solution To Managing Mineral Wealth' (2006) 4 Perspectives on Politics 35. See also Terry Lynn Karl (n 84).

[256] See Sections 1-2 Petroleum Act No. 72 1996. See also, Steinar Holden n 33.

evident that petroleum resources are not used for the more significant benefit of the people, instead the benefits are for the elite and ruling groups. According to Professor Stevens et al., weak institutions are consequences of the resource curse, which in turn lead to the country's elite or ruling groups being the only ones to benefit from the development of these petroleum resources.[257] Guichaoua attributed this present Nigerian reality to the institutional background the country inherited from the colonial era and has a mitigating impact of oil dependence by the state, which has not led to development.[258] Consequently, this is the situation in Nigeria, NNPC the country's NOC becomes a rent collector and cash cow for the elite and ruling groups.

In the early 1970s, oil constituted more than half Nigeria's commodity exports, but agriculture remained the dominant sector, which meant that the country was not dependent on oil.[259] This was only temporary, as, by the end of the decade, Nigeria was widely cited as suffering from the "oil syndrome" or 'Dutch disease'.[260] Subsequently, the countries' petroleum policy response to their abundant petroleum, has not yielded any positive outcome so far, unlike the outcome in Norway.

Gelb in articulating Nigeria's policy response to oil windfalls stated:

> Nigeria's strategy for managing its extraordinary windfalls cannot be regarded as a carefully articulated one in the sense that, say Algeria's can. Nigerian policymakers do not seem to have resolutely set out to pursue a strategy heavily biased toward infrastructure and education and away from agriculture, but they were inclined to believe that achieving productivity gains in traditional small holder agriculture would be difficult.[261]

Gelb in analysing the impact of petroleum resources in Nigeria's economy observed that fundamentally the revenues from petroleum were used to support

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[257] As observed in Nigeria's case. See Paul Stevens, Glada Lahn and Jaako Kooroshy, 'The Resource Curse Revisited' [2015] The Royal Institute of International Affairs (Chatham House) <http://www.dehai.org/archives/dehai_news_archive/2015/aug/att-0657/The_Resource_Curse_Revisited.pdf> accessed 31 January 2019.

[258] See Yvan Guichaoua, 'Oil and Political Violence in Nigeria' in Jacques Lesourne and William C. Ramsay (eds), *Governance Of Oil In Africa: Unfinished Business* (IFRI 2009) 21.

[259] Alan H Gelb (n 53) 227. See also, Ludwig Herbert Schätzl (n 53) 152.

[260] The mineral sector's share of the GDP went from about 1% in 1960 to more than 25% in the late 1970s. Furthermore, in 1979 petroleum export rose to well over 90% of the total export. See Alan H Gelb (n 53) 227-228. See also, Erika Weinthal and Pauline Jones Luong n 249.

[261] Alan H Gelb (n 53) 256.

the country's social and political structures. These revenues were not used to improve the agricultural sector or its productivity, in the way Indonesia put their oil revenue to use, Nigeria did not make any plans to adjust to an event of reduced inflow of oil revenues.[262] Expectedly, the result was a vicious cycle of rising distortion, declining efficiency, falling non-oil output, fiscal deficit, inflation, and disruptive cuts in public spending.[263] To put it differently, in the early 1970s, Nigeria was still considered a developing country, despite its oil.[264] Then, the country was still dependent on agriculture as a source of food, employment, investable surplus, and exports. At present Nigeria is still considered a developing country, in the same vein rich in natural resources, especially petroleum.

Deacon claimed that the natural resource curse and the resulting mismanagement of these windfalls led to an institutional decline in some petroleum-rich states.[265] Orihuela claimed that looking at the resource curse in the political economy would contribute to the explanation of the difference the institutions make.[266] Arguably, this could be the leading problem in the Nigerian petroleum sector, which has evidenced corruption, government complacency, excessive borrowing/debt overhang, Dutch disease, neglect of education, health care facilities, violence in the regions where the petroleum is produced, among other things.[267]

In combating the Dutch disease, Torvik proposed a model termed 'learning by doing' which promotes production and productivity in both traded and non-traded sectors of an economy, which could be applied to the petroleum sector when the state is involved in the production phase of the upstream industry as an operator, rather than leaving the production mainly to the IOCs.[268] Learning by doing could be suggested as being part of Norway's success in its petroleum industry.

[262] See Alan H Gelb (n 53) 228-230. See also R.M. Auty, 'Internal Constraints On Prudent Oil Windfall Deployment For Resource-Based Industrialisation: Nigeria And Cameroon' (1988) 19 Geoforum 147.
[263] Ibid.
[264] Ibid.
[265] Robert Deacon, 'The Political Economy Of The Natural Resources Curse: A Survey Of Theory And Evidence' (2011) 7 Foundations and Trends® in Microeconomics 111.
[266] José Carlos Orihuela, 'Institutions And Place: Bringing Context Back Into The Study Of The Resource Curse' (2017) 14 Journal of Institutional Economics 157.
[267] See Agwara J. Onyeukwu, 'Resource Curse In Nigeria: Perception And Challenges' [2007] Central European University - Center for Policy Studies / International Policy Fellowships <https://core.ac.uk/download/pdf/11871241.pdf> accessed 8 July 2019. See also, Yvan Guichaoua, 'Oil and Political Violence in Nigeria' in Jacques Lesourne and William C. Ramsay (eds) (n 252) 9-41.
[268] See Ragnar Torvik, 'Learning By Doing And The Dutch Disease' (2001) 45 European Economic Review 285.

Furthermore, Moses and Letnes argued the importance of competitiveness in the rest of the economy's sectors.[269] In their analysis of the Norwegian petroleum sector and how they combated the Dutch disease, the Norwegian government from using exchange rate regime adjustments changed to increased factor mobility, as a means of reducing inflation, and most importantly Norway stored their petroleum resource incomes offshore, with the view that, as petroleum resources are finite, when these resources run out the country can use their stored incomes advantageously in the international economy.[270]

According to Paler, there is a need to understand further the decentralisation[271] and subnational resources curse, which involves ways in which the central government distributes or redistributes the revenues obtained from the export of its petroleum resources.[272] The formulas for allocating petroleum revenues between the federal and state governments had an impact on the economy.[273] The primary objectives that are expected for every revenue allocation formula are expected to accomplish: national unity; economic growth; balanced development; self-sufficiency and high standard of living for the citizens.[274] The distribution of petroleum rents in Nigeria has always been a problem, and it has also influenced the public spending patterns and their distributional effects.[275] This view was also supported by the works of Ingen et al.[276] The sharing of financial benefits from resource extraction with regional governments is referred to as revenue decentralisation.[277]

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[269] See Jonathon Wayne Moses and Bjørn Letnes (n 46) 130-147.

[270] Ibid., 147. See also, Erling Roed Larsen, 'Escaping The Resource Curse And The Dutch Disease? When And Why Norway Caught Up With And Forged Ahead Of Its Neighbors' (2006) 65 American Journal of Economics and Sociology 605.

[271] The sharing of the financial benefits of resource extraction with regional governments is referred to as revenue decentralisation. See Michael Lewin Ross, *The Oil Curse* (Princeton University Press 2013) 239.

[272] Laura Paler (*Revenue Watch Institute*, 2011) <https://resourcegovernance.org/sites/default/files/SubnationalresourcecurseliteratureDRAFT.pdf> accessed 23 April 2019. See also Rebecca Miller, 'Natural Resource Extraction And Political Trust' (2015) 45 Resources Policy 165 and Osmel Manzano and Juan David Gutiérrez, 'The Subnational Resource Curse: Theory And Evidence' [2019] The Extractive Industries and Society 261.

[273] See Emmanuel O. Ojo, 'The Politics Of Revenue Allocation And Resource Control In Nigeria: Implications For Federal Stability' (2010) 7 Federal governance 15.

[274] Ibid.

[275] Alan H Gelb (n 53) 238.

[276] See Chiara van Ingen, Requier Wait and Ewert Kleynhans n 74.

[277] The effective ways to reduce the government's windfall and ensuring that the people of the extractive regions will not seek independence as the case of Nigeria and the Niger Delta crisis. Although this can also lead to corrupt and incompetent regional governments, since they can also be as ineffective as the central government.

The resource curse is evident in Nigeria while absent in the Norwegian petroleum sector. The learning by doing model as argued here and in the previous chapter, seems to be vital for the petroleum sector of Nigeria. Adopting progressive policies, and engaging in the production and operational side of the upstream sector by the country's NOC will assist the state to gain technical knowledge of the industry. Today the major oil fields of Nigeria are operated by IOCs, NPDC does not operate the significant fields. How can a country's crown jewels be left in the hands of IOCs, maybe because of the steady rents received by the government?[278]

6.3.3.4 The Rentier State

Karl commented that loss of fiscal control, overspending, and soaring debt are factors that show a declining state capacity as they rely heavily on rents, especially rents from the petroleum sector, thus making the state a rentier state.[279] In agreement with Karl, and other commentators on natural resource curse Larsen claimed that rent-seeking is the pathogen of this curse.[280] According to Barma, rentier states vary in their experience, and to better understand them, there is a need to identify and understand their particular experience.[281]

Therefore, one has to identify and understand the experience of Norway and Nigeria better. As suggested in chapter 5, rent-seeking can be advantageous to a state. However, the over-reliance on petrodollars, especially in periods of high oil price can deteriorate to a form of "feeding frenzy", where the state becomes a grabber state rather than a productive state.[282] According to Adibe et al., the Nigerian government's stance towards its petroleum industry, especially the

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See Michael Ross (n) 239. See also, Michael Takim Otu, 'Resource Control And Appraising Debates On True Federalism In Nigeria: Critical Perspectives And Political Options' (2017) 2 Research Journal of Humanities, Legal Studies & International Development (RJHLSID) 95.

[278] See 'NPDC - Upstream Nigeria Oil & Gas And Energy Directory' (*Upstream Nigeria Oil & Gas and Energy Directory*, 2018) <https://upstreamnigeria.com/npdc/> accessed 27 November 2019. See also, Chapter 5.

[279] Terry Lynn Karl (n 84). See also, Andrew Williams, 'Shining A Light On The Resource Curse: An Empirical Analysis Of The Relationship Between Natural Resources, Transparency, And Economic Growth' (2011) 39 World Development 490.

[280] Erling Roed Larsen n 264.

[281] Naazneen H. Barma, 'The Rentier State At Work: Comparative Experiences Of The Resource Curse In East Asia And The Pacific' (2014) 1 Asia & the Pacific Policy Studies 257.

[282] Terry Lynn Karl (n 84).

upstream industry, is one that prioritises the steady flow of rent from the petroleum resources from the IOCs, rather than full participation in the production of these resources.[283]

Further Yates in analysing the rentier mentality or psychology stated:

> the rentier mentality is a psychological condition with profound consequences for productivity: contracts are given as an expression of gratitude rather than as a reflection of economic rationale; civil servants see their principal dusty as being available in their offices during working hours; businessmen abandon industry and enter into real estate speculation or other special situations associated with a booming oil sector; the best and brightest abandon business and seek out lucrative government employment; manual labour and other work considered demeaning by the rentier is farmed out to foreign workers, whose remittances flood out of the rentier economy; and so on.[284]

Reflectively, these situations, as claimed in chapter 5, show the situation in the Nigerian upstream petroleum sector. The over-reliance on rents from IOCs continues till date. Although going by the PIGB plans seem to be in place to establish a fully productive and operational NOC, that will engage in the upstream sector of the country.

6.4 Equinor and NNPC: Comparative Analysis

This study has shown that ever since the entrance of state-owned petroleum companies or NOCs, into the global petroleum industry, they have taken up a strategic position in the global petroleum industry, and thus played a vital role in the development of petroleum resources both domestically and internationally. NOCs have helped their states achieve economic development, and meet energy demands through their activities. At the same time, this might not be obtainable from all NOCs, and this section sets out to critically evaluate the roles Equinor and

[283] Raymond Adibe, Ejikeme Nwagwu and Okorie Albert, 'Rentierism And Security Privatisation In The Nigerian Petroleum Industry: Assessment Of Oil Pipeline Surveillance And Protection Contracts' (2017) 45 Review of African Political Economy 345.

[284] Douglas A. Yates, *The Rentier State In Africa: Oil Rent Dependency And Neocolonialism In The Republic Of Gabon* (Africa World Press 1996) 22.

NNPC play in their respective countries. Why are one highly rated globally for value creation and the other for wastefulness?

EQUINOR

Identified as the second youngest NOC in Europe, but also as a small NOC compared to some in Europe in the early 1970s,[285] Al-Kasim claimed that there was a political accord throughout the 1970s and early 1980s to allow Equinor to evolve into a powerful tool through which Norway would achieve its national petroleum objectives domestically and globally.[286] This goal was achieved, as Equinor achieved the set government objective, and over the years has generated enormous revenues for the Norwegian government through its petroleum activities, domestically and globally.

Today, Equinor is one of the most essential NOCs nationally, and internationally. This was achieved mainly due to the fact that it was the principal operator in the vast oil and gas field of the country. A country whose oil and gas needs were not vast.[287]

In summarising the Norwegian petroleum experience Ryggvik stated:

> Through Equinor, strategic state ownership, a strong professional. Institution like a Petroleum Directorate and above all through the continual build-up of technological know-how, Norway has

[285] Leslie E Grayson, *National Oil Companies* (John Wiley & Sons Ltd 1981) 197 – 211. See also Helge Ryggvik n 65.

[286] Farouk Al-Kasim (n 44) 87-89.

[287] As significant findings were made at Ekofisk and the major gas discovery at Frigg in 1971, it became important that that the Norwegian government had to set up a NOC to handle and control its resources and this view was echoed by the proposal the government made to the Norwegian Parliament (Storting). Following the proposal, in September 1972 Statoil was established with the following objectives:

> To carry out, by itself or in participation or in cooperation with other companies, exploration and production, transportation, refining and marketing of petroleum and products derived therefrom, and other activities reasonably related thereto.

The above objective handed to Statoil translate the desire of the Norwegian government not only to own its resources but also to control the resources and the exploitation of these resources. The NOC was mandated to be involved in every facet of the Norwegian oil and gas industry. Important to note, although Statoil were given the mandate, the government also were aware of how powerful Statoil can become, and when its influence grows it might start controlling the government citing the experience of Italy with Enrico Mattei and the struggle to get ENI controlled by the government and not ENI controlling the government the legislators had to find a way to limit the powers of Equinor.

See Leslie E Grayson (n 279) 197 – 211.

> managed to ensure that most of the economic rent from oil has gone to the state, hence to society.[288]

The state's NOC has a vital role to play, an affirmation of a state's ownership and control over its natural resources, as established in chapter 4, as components of resource nationalism. However, Ryggvik, calls it 'strategic state ownership' which definitely assisted Norway in using their petroleum resources to add value to the Norwegian people.

NNPC

In the Middle East and Africa, NOCs emerged mostly after the establishment of OPEC in 1960. The exception is the National Iranian Oil Company (NIOC) which was formed in 1957 on the nationalisation of the Anglo-Iranian concession. Now, almost every developing country that has had or wishes to have exploration efforts undertaken in its territory has a NOC.[289] Onoh claimed that NNPC was established as the Nigerian government needed a NOC with broader powers, as it would be independent in its activities, unlike NNOC, which has some restrictions imposed on it.[290] This so-called independence of the country's NOC is a phenomenon that is yet to occur. The federal government's grip on NNPC tightens by the day, even in light of new reforms that will free and unbundle NNPC.

Until the PIGB is fully passed and the proposed unbundling of the state's NOC takes place NNPC is expected to perform specific roles, especially in the petroleum industry and carry out the nation's mission for the control of its petroleum resources. Three dimensions in achieving these goals and more can be identified: (i) protecting national hydrocarbon wealth, (ii) promoting economic development, and (iii) promoting the political interests of the state abroad.[291] These duties were

[288] Helge Ryggvik n 65. See also Emeka Duruigbo, 'Permanent Sovereignty And Peoples' Ownership Of Natural Resources In International Law' (2006) 38 The George Washington International Law Review 33.
[289] Yinka Omorogbe (n 131) 37 – 38.
[290] See Nigerian National Petroleum Corporation Act Chapter N123 2004. See also, J. K Onoh (n 59) 34-36.
[291] Paul Stevens, 'A Methodology for Assessing the Performance of National Oil Companies background paper for a study on national oil companies and value creation' (The World Bank 2008) <http://siteresources.worldbank.org/INTOGMC/Resources/NOC_methodology_stevens.pdf> accessed 9 January 2017.

detailed in sections of NNPC Act 2004,[292] which outlined NNPC's upstream, midstream and downstream duties in the Nigerian petroleum industry. Under the PIGB within six months of the bill being passed into law two companies will be incorporated through Corporate Affairs Commission (CAC): Nigerian Petroleum Assets Management Company (NPAMC) and National Petroleum Company (NPC).[293] NPAMC manages the PSCs while NPC would be tasked to manage all other NNPC assets such as JVs.[294]

Industry analysts and commentators postulated four key growth stages of a NOC which are; passive minority equity partner with IOCs, contributing minority equity partner, responsibility for a minor field to responsibility for a significant complex field.[295] If these are parameters to assess a prosperous and progressive NOC how will the Nigerian NNPC be categorised? In Africa, Sonangol P&P, the subsidiary of Sonangol, took just three years to move from operatorship of tiny fields to complex fields in Angola.[296] Many IOCs and smaller investors participate in the crude oil business in Nigeria under various forms of participation regimes since crude oil was discovered there. It is expected, however, that the participants will maximise the benefits of these participation regimes for the growth and continuous development of the oil and gas business in Nigeria.[297] Nevertheless, the full benefit of these forms of participation is yet to be seen in the level of growth recorded in NNPC, the Nigerian NOC that goes into these arrangements with the IOCs.[298]

The primary reason for the creation of these NOCs is invariably the same as that which led to the creation of Statoil and BNOC; to advance and promote state

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[292] See Section 5 (1) Nigerian National Petroleum Corporation Act Cap N123 2004.
[293] See Section 77 (1) The Petroleum Industry Governance Bill 2018.
[294] See Section 77 (2) The Petroleum Industry Governance Bill 2018.
[295] See KPMG International, 'Unlocking the potential of Africa's NOCs' (2014) <https://assets.kpmg.com/content/dam/kpmg/pdf/2014/11/unlocking-potential-africas-NOCs.pdf> accessed 8 January 2017
[296] Ibid.
[297] Francisca E Nlerum, 'Reflections on Participation Regimes in Nigeria's Oil Sector' (Nigerian Current Law Review 2007 - 2010 2011) 146–162 ch 5 <http://nials-nigeria.org/pub/NCLR5.pdf> accessed 11 January 2017
[298] See Aaron Sayne, Alexandria Gilles and Christina Katsouris, 'Inside NNPC Oil Sales: A Case Of Reform In Nigeria' (*NRGI Resourcegovernance.org*, 2015) <https://resourcegovernance.org/sites/default/files/NRGI_InsideNNPCOilSales_CompleteReport.pdf> accessed 1 December 2019.

policy, mainly in these instances by affecting state participation in the oil industry, promoting investment in the oil sector, and encouraging exploration.[299] Omorogbe further stressed that the major problem that this group of companies had was the promotion of state policy, to the detriment of all other objectives.[300]

The observations of Vines et al. in their Chatham House report about NNPC, raises questions of state control over petroleum resources in Nigeria, which was argued in chapter 5. According to Vines et al. unlike many NOCs around the world, NNPC welcomes foreign equity participation under their Joint Venture (JV) arrangements and the Nigerian petroleum sector has always been an 'attractive theatre' for IOCs, therefore resulting in an IOC dominated petroleum sector.[301] In an IOC dominated industry, how does the government ensure control? Concerning the thesis, the Nigerian Petroleum Development Company Limited (NPDC) as a subsidiary of NNPC was given the mandate to engage in the upstream production of petroleum.[302] NPDC cannot boast of a commercial quantity of production, given the vast amount of petroleum resources within the country's territory. For example, the NNPC June 2019 Report, calculated NPDC's daily production from May 2018 to May 2019 to be 130,406 barrels per day, for a country that produces about 2 million barrels per day.[303] One wonders how the country can boast of control when the country's NOC or subsidiary does not produce at least 60% of the crude oil in the country. Instead, the major oil fields and larger productions are run by IOCs.

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299 Whilst many of the NOCs are quite modest in size and only nominally in control of their respective oil industries, some are actually involved in the direct production of their nations' oil resources and have even undertaken exploration efforts in other developing countries. Examples of such companies are the Indian Oil and Natural Gas Commission (ONGC), YPF and Petrobras. See Yinka Omorogbe (n 131) 37 – 38.
300 Ibid.
301 Alex Vines and others, 'Thirst For African Oil: Asian National Oil Companies In Nigeria And Angola' [2009] Chatham House Report <https://www.chathamhouse.org/sites/default/files/r0809_africanoil.pdf> accessed 2 August 2019.
The Nigerian oil policy of participation in equity was first seen in its agreement with Nigerian Agip Oil Company (NAOC), a subsidiary of ENI the Italian oil company. See J. K Onoh (n 59) 22.
302 See 'Welcome To NPDC' (*Npdc.nnpcgroup.com*, 2019) <https://npdc.nnpcgroup.com/Pages/Home.aspx> accessed 11 November 2019.
303 See 'NNPC Monthly Report: Financial And Operations Report' (*NNPC Nnpcgroup.com*, 2019) <https://www.nnpcgroup.com/NNPCDocuments/Performance%20Data/FullReports/Approved%20NNPC%20 Monthly%20Financial%20%20Operations%20Report%20for%20the%20Month%20of%20June%202019.pdf> accessed 1 December 2019.

Lewis remarked that NNPC operates opaque swap deals with traders under which it supplies consignments of crude in exchange for refined products, sourced from world markets.[304] He continued that this scheme is attractive to traders because it is cashless, and crude volumes can be generous — but the arrangements are inefficient and, according to the Nigeria Extractive Industries Transparency Initiative (NEITI) it could be costing the country $8bn a year.[305] Further, Lewis stated that NNPC, with a staff of about 10,000, is a powerful force of patronage and is sure to resist moves to reform it.[306] One might argue that the elites and ruling class benefiting from this particular situation will not permit any reform that would disrupt their revenue flow. This is, evident by the number of years it has taken the government to pass the PIB now PIGB that would see NNPC unbundled. These new companies will be expected to be commercially-driven and will be able to raise funding internationally.[307]

NNPC is permitted to enforce all regulatory measures and engage in any commercial activities in the petroleum sector by the Nigerian National Petroleum Corporation Act.[308] Recently, NNPC has had plenty to worry about, according to some official statistics, between January and May 2016, "pipeline vandals and oil thieves" stole 0.56m barrels of crude and 109m litres of petroleum products.[309]

[304] Ian Lewis, 'Nigeria's dilemma' (*Petroleum Economist*, 10 November 2016) <http://www.petroleum-economist.com/articles/politics-economics/africa/2016/nigerias-dilemma> accessed 7 January 2019.

[305] Ibid. See also 'Nigeria' (*Extractive Industries Transparency Initiative*, 2019) <https://eiti.org/fr/implementing_country/32> accessed 1 December 2019 and Omolade Adunbi, 'Extractive Practices, Oil Corporations And Contested Spaces In Nigeria' [2019] The Extractive Industries and Society.

[306] Ibid. See also, Isaac 'Asume' Osuoka, 'Cooptation And Contention: Public Participation In The Nigeria Extractive Industries Transparency Initiative And The Demand For Accountable Government' [2019] The Extractive Industries and Society.

[307] It is likely to be given a new senior management team and then split into four new entities covering upstream, gas distribution, refining and pipelines, and inspectorate activities. Some unacceptable aspects of the PIB have now been removed — in particular, the requirement in an early draft for the creation of incorporated joint ventures, in which the producing companies would have held minority interests under NNPC's majority. But there are still substantial concerns over fiscal and governance aspects. See Ian Lewis n 298.

[308] See Section 6 of Nigerian National Petroleum Corporation Act Chapter N123 2004. See also, Jennifer Douglas-Abubakar and Fatimah Muhammad, 'Nigeria: Oil & Gas Regulation 2019' (*International Comparative Legal Guides International Business Reports*, 2019) <https://iclg.com/practice-areas/oil-and-gas-laws-and-regulations/nigeria> accessed 15 August 2019.

[309] In that period NNPC suffered a total 1,447 pipeline breaches of varying importance. In terms of percentages, gas supply is even harder hit. Instead of the 1.4bn cubic feet a day for which the corporation had budgeted, it pumped less than 0.7bn cf between January and May. The losses are playing havoc with NNPC's revenues and Nigeria's economy. Production is 0.7m b/d beneath the level needed for the government's budget for 2016. Unsurprisingly, the September meeting expressed alarm at the "continuing dwindling of NNPC revenue". See Selwyn Parker, 'Nigeria's oil output still hampered' (*Petroleum Economist*, 3 October 2016) <http://www.petroleum-economist.com/articles/markets/outlook/2016/nigeria-s-oil-output-still-hampered> accessed 8 January 2019.

The Nigerian petroleum sector, especially the upstream sector has had a difficult past few years, from awaiting the enactment of new reforms, to loss of revenue and militant attacks in the Niger Delta. For example, in 2015, militant attacks on Nigerian oil pipelines have forced around 0.5m barrels a day of its oil output offline this year, causing the country to cede its place to Angola as Africa's biggest crude producer in that period.[310]

For example, in 2014, the then PIB's revised fiscal arrangements were intended to raise the tax to take on joint-venture operations from 86% at present to 91%, according to an industry estimate, while the take from production-sharing contracts — introduced in 1993 when deep-water blocks were offered for the first time — would rise from 30% to 77%.[311] The tax on gas production under joint ventures would rise from zero to 60%.[312] The company holds interests of 55% or 60% in the joint ventures which produce about 1.5m barrels a day (b/d) out of Nigeria's total output, including condensates, of approximately 2.3m b/d.[313]

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[310] In August 2015, Nigerian oil production was just 1.46m b/d, well down from 2m b/d in October 2015. ExxonMobil was expected to resume loading oil at the Qua Iboe terminal, Nigeria's largest field, after rerouting supplies. The facility has been under *force majeure* since July. Shell has also lifted *force majeure* on its Bonny Light exports after patching up a damaged pipeline. Combined export capacity from the facilities is about 0.5m b/d, though it isn't yet clear how much they will ship just yet. Furthermore, in October, 2019 the IMF said it expected the Nigerian economy to contract by around 1.7% this year, before expanding by just 0.6% in 2017 a downward revision to its previous forecast for next year's growth of 1.1%. In September, S&P downgraded Nigeria's rating by a notch from B+ to B, several levels below investment grade. The credit-ratings agency said the shrinking economy was attributable to disrupted oil production, restrictive foreign exchange policy the naira was been allowed to float in June, and since then has lost about 10% of its value and a failure to implement fiscal stimuli fast enough. The naira's weakness has hurt Nigerian importers' ability to pay for gasoline imports, which are vital given the country's lack of functioning refining capacity.
The Nigerian lower house of parliament is also investigating missing fuel exports, which it says could total 58m barrels of oil and 0.727m tonnes of liquefied natural gas, worth up $17bn. See Helen Robertson, 'Nigeria is no longer Africa's top dog' (*Petroleum Economist*, 5 October 2016) <http://www.petroleum-economist.com/articles/politics-economics/africa/2016/nigeria-is-no-longer-africas-top-dog> accessed 7 January 2020 and Ian Lewis n 298.

[311] See Marc-Antoine Pérouse de Montclos, 'The Politics And Crisis Of The Petroleum Industry Bill In Nigeria' (2014) 52 The Journal of Modern African Studies 403

[312] The PIB also sets up a fund for local communities in the oil-producing areas and demands that producing companies pay 10% of their monthly net profits into it — a controversial measure even within Nigeria's administration because the existing revenue-sharing formula already provides for the oil-producing states to share an additional 13% of income. The PIB gives considerably increased powers to the minister of petroleum resources, which could facilitate further tax and cost increases for the companies and could open another potential route for corruption. See Marc-Antoine Pérouse de Montclos n 305 and Martin Quinlan, 'Nigeria sets out on oil reform to kerb corruption' (*Petroleum Economist*, 8 May 2015) <http://www.petroleum-economist.com/articles/politics-economics/africa/2015/nigeria-sets-out-on-oil-reform-to-curb-corruption> accessed 7 January 2020.

[313] Years of uncertainty over the PIB now the PIGB, together with sabotage in the delta, have led to cuts in exploration and development spending, with the result that Nigeria's production capacity has declined. Output peaked in 2005 at 2.4m b/d (excluding condensates), according to the International Energy Agency, but then fell

The NNPC restructuring plan has been in design for years now, articulated in the proposed bill, initially PIGB, but the fact is that this restructuring plan is deemed necessary by an industry analyst, as one way in which NNPC will create value through the effective management of the nation's petroleum resources.[314] The top goal is to transform NNPC, so that it can be able to meet Nigeria's needs, and eventually, compete in the global petroleum industry. The Bill's commercialisation goals, as it relates to this study, intends to unbundle the NNPC, to create an independent commercial NOC. The potential that the PIGB will hold is a welcome development, yet the bill fails to offer a clear path to the more effective management of Nigeria's state-owned oil enterprises.[315] The upstream industry of Nigeria seems to be embarking on some restructuring since the proposal of the new Petroleum Industry Governance Bill (PIGB).[316] This restructuring has been pending for years, and the PIB has now been renamed the Petroleum Industry Governance Bill (PIGB).[317] Akinola argues that the stalling to pass this Bill evidences the excessive power the President enjoys as he continues to withhold his assent to pass the bill into law.[318] Recently, the President rejected the PIGB, citing legal issues, while some commentators raise issues that it would diminish the President's power over petroleum resources.[319] Although this decision of the President can be overruled by a 2/3rd majority of members of both houses of

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steadily until 2010 when the amnesty scheme is credited with allowing an increase. In recent years production has declined again, to only 1.9m b/d in 2014. See Martin Quinlan n 306.

314 See Jennifer Douglas-Abubakar and Fatimah Muhammad n 302; 'Nigeria: NNPC Restructuring Plan' [2010] Africa Research Bulletin: Policy and Practice 18588; 'FOCUS: Nigeria Tries To Sort Out Oil And Gas Sectors' (2012) 37 Oil and Energy Trends 3; Punch Newspapers, 'FG To Restructure Oil Sector, NNPC' (2016) <https://punchng.com/fg-restructure-oil-sector-nnpc/> accessed 14 August 2019; 'Nigeria: NNPC Hits Back' (2017) 54 Africa Research Bulletin: Economic, Financial and Technical Series 21854A and Marc-Antoine Pérouse de Montclos n 305.

315 See Aaron Sayne and others, 'The petroleum industry bill and the future of NNPC' (The Revenue Watch Institute 2012) <http://www.resourcegovernance.org/sites/default/files/rwi_bp_nnpc_synth_rev2.pdf> accessed 10 January 2017.

316 See Ministry of Petroleum Resources, '7 Big Wins' (Ministry of Petroleum Resources Nigeria 2016) <http://www.7bigwins.com/wp-content/uploads/2016/10/7-Big-Wins-Short-and-Medium-Term-Priorities-to-Grow-Nigerias-Oil-and-Gas-Industry-2015-2019.pdf> accessed 17 September 2017; Aaron Sayne and others n 292.

317 See Emmanuel Graham and Jesse Salah Ovadia n 111. See also Cyril Obi, 'Nigeria: the Role of Civil Society in the Politics of Oil Governance and Revenue Management' in Indra Øverland (ed) (n 71) 209-210 and 'The Petroleum Industry Governance Bill, 2017' (*Templars-law.com*, 2017) <https://www.templars-law.com/wp-content/uploads/2017/06/Petroleum-Industry-Governance-Bill.pdf> accessed 24 August 2019.

318 Adeoye O. Akinola (n 10) 102.

319 See Oluwatoyin Bayagbon, 'EXCLUSIVE: Buhari Rejects PIGB, Says It Whittles Down His Power - Thecable Petrobarometer' (*TheCable Petrobarometer*, 2019) <http://petrobarometer.thecable.ng/2018/08/28/exclusive-buhari-rejects-pigb-says-it-whittles-down-his-power/> accessed 9 October 2019. See also, Adeoye Adefulu, 'PIGB Assent: What Has Happened Since?' (*Odujinrinadefulu.com*, 2019) <http://www.odujinrinadefulu.com/content/petroleum-industry-governance-bill> accessed 9 October 2019.

Assembly, the primary question would be, will the members of both houses, have the political will to go against the President, and constitutionally overrule his decision.[320] To put it another way, the need to retain power becomes crucial and has influenced the economic policies of the country.[321] It is pertinent to view Nigeria's upstream industry through the lenses of a structured upstream petroleum industry like Norway, thus bringing the NOC of both countries into focus and the legal framework too.[322] The petroleum industry of Nigeria can claim to have been influenced by the movement of resource nationalism, similarly the phenomenon's component's ownership and control of their petroleum resource sector (upstream, midstream and downstream).[323]

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[320] See Adeoye Adefulu, 'Buhari Rejects The PIGB' (*petroleumindustrybill.com*, 2019) <http://www.petroleumindustrybill.com/2018/08/28/buhari-rejects-the-pigb/#.XZ3MIy-ZNo4> accessed 9 October 2019.

Arguably, as a result of political interests, the passing of the PIB failed severally, over the past decade, and since then has been re-drafted and split into several parts:

1. The Petroleum Industry Governance Bill:

This bill, deals with the governance and institutional framework of the Nigerian petroleum industry. Under this bill the National Petroleum Regulatory Commission (NPRC) replaces DPR and PPPRA. NPRC is intended to be responsible to regulating the entire industry. Further under this bill, the Nigerian Petroleum Company (NPC) shall be incorporated as a company limited by shares, responsible for all assets currently being managed by the NNPC, other than those under PSCs, and the back-in-right provisions.

2. The Petroleum Fiscal Framework Bill 2018:

This bill regulates the imposition and collection of taxes, royalties and rents in the petroleum industry.

3. The Petroleum Industry Administration Bill 2018:

This bill administers the issuances and revocation of licences, permits for exploration, production and operations, in upstream, midstream and downstream.

4. The Petroleum Host Impacted Communities Bill 2018:

Aims to establish the rights and opportunities for host communities in terms of economic benefits restitution for environmental, social costs of resource extraction activities.

See Sections 1 – 9 The Petroleum Industry Governance Bill 2018. See also, Adeoye Adefulu, 'Breaking Down The Petroleum Industry Governance Bill' (*Odujinrinadefulu.com*, 2018) <http://www.odujinrinadefulu.com/sites/default/files/Unbundling%20the%20PIGB%20for%20SBL%20meeting.pdf> accessed 13 November 2019; 'The Analysis Of The Petroleum Industry Governance Bill' (*Yourbudgit.com*, 2019) <https://yourbudgit.com/wp-content/uploads/2017/05/Petroleum-Industry-Governance-Bill-INFOGRAPHICS.pdf> accessed 13 November 2019; 'Policy Briefs: HCB And PIGB – What You Need To Know - SDN' (*SDN*, 2019) <https://www.stakeholderdemocracy.org/policy-briefs-hcb-and-pigb-what-you-need-to-know/> accessed 13 November 2019 and 'The Petroleum Industry Governance Bill' (*KPMG*, 2017) <https://assets.kpmg/content/dam/kpmg/ng/pdf/tax/ng-kpmg-newsletter-on-the-petroleum-industry-governance-bill.pdf> accessed 13 November 2019.

[321] See Kiren Aziz Chaudhry, 'The Price Of Wealth: Business And State In Labor Remittance And Oil Economies' (1989) 43 International Organization 101.

[322] The federal government's control over oil and gas resources was achieved when Nigeria was ruled by a military regime. This regime did not invest the revenues in creating conditions for sustainable development, which some writers considered to be a catastrophic failure of public policy. Instead, the oil and gas resources became an instrument of politics. See Yinka Omorogbe (n 131) 37 – 38.

[323] From the sections of the Petroleum Act of 1969 to the 1978 Land Use Act, the state has always been proactive in the actual control and ownership of its natural resources. Even the OPEC's influence can be identified. See Yinka Omorogbe n 131.

6.4.1 Equinor and NNPC Roles in Petroleum Resource-Led Development

With the earlier critical analysis of both Nigerian and Norwegian upstream petroleum industry, it can be gleaned that the NOC of these countries is the primary institution used by the government in the development of its petroleum resources. However, one is directly involved and the other acts as a rent collector on behalf of the government. In this case, the quality of institutions, according to Mehlum et al., becomes key to the state achieving sustainable and economic development through the exploration and production of its petroleum resources.[324] Van der Linde maintained that the auspicious and favourable conversion of petroleum resources into real and sustainable growth usually becomes the problem of petroleum-rich producing states.[325]

This study aligns its arguments with the Natural Resource Charter - Precept 6 of the Natural Resource Governance Institute (NRGI) which states:

> NOCs should be accountable, with well-defined mandates and an objective of commercial efficiency.[326]

The NRGI argues that these will assist the state to convert their petroleum resources into development. The NOC will build capacity to participate in any lucrative field of petroleum extraction.[327] Therefore the importance of an efficient commercial NOC cannot be over-emphasised as it would assist a petroleum-rich state's citizen to benefit from their resource wealth. According to Cameron and Stanley, for an increase in value creation through petroleum resources, each government must be prepared to contemplate a change in policy framework and principles, when the subsisting ones are not helping the state reap the benefits

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[324] Halvor Mehlum, Karl Moene and Ragnar Torvik, 'Cursed By Resources Or Institutions?' (2006) 29 The World Economy 1117.
Also, the proposed change by the PIGB created 7 institutions: the Minister; the Ministry of Petroleum Incorporated; the Nigerian Petroleum Regulatory Commission; the Nigerian Petroleum Assets Management Company; The National Petroleum Company and Petroleum Equalisation Fund. See The Petroleum Industry Governance Bill, 2018.

[325] Coby Van der Linde, *The State And The International Oil Market: Competition And The Changing Ownership Of Crude Oil Assets* (Kluwer Academic 2000) 85.

[326] See 'The Natural Resource Charter Decision Chain: Converting Resources Into Development' (*NRGI Resourcegovernance.org*, 2018) <https://resourcegovernance.org/sites/default/files/documents/nrgi_primer_nrc-decision-chain.pdf> accessed 28 November 2019.

[327] See 'State Participation And State-Owned Enterprises: Roles, Benefits And Challenges' (*NRGI Resourcegovernance.org*, 2015) <https://resourcegovernance.org/sites/default/files/nrgi_State-Participation-and-SOEs.pdf> accessed 28 November 2019.

from their petroleum resources.[328] Arguably, laws, contract, and regulations are the cornerstones of a legal framework in governing petroleum resources.[329] A sound legal framework would thus assist the NOC of the state to achieve the objectives of enhanced value creation, through the management of the petroleum resources.

According to McPherson, NOCs are here to stay, and it has been visible amidst periods of criticism and popularity, the NOC model of petroleum resource development has been resilient in the global petroleum industry.[330] Today, the question is, how can a NOC create value for the state through its petroleum activities? What parameters are available to assess the progress and success of any NOC? Heller et al. in their study, used a range of standards to judge NOCs on their value creation abilities: production profile, region, share listing, operator status, and audit status.[331] Further in their analysis on NOC value creation, they proffered three goals that ultimately define the NOC performance within the confine of their government petroleum policies: cash cow NOC, profit seeker NOC, and state supplement NOC.[332]

According to Heller et al., the cash cow NOC exists to mainly assist the state obtain income from their petroleum resources, and transfer these revenues to the government.[333] Van der Linde claimed that this has been the primary complaint of some NOC executives of petroleum-producing states, whereby the revenues are taken away from the NOCs once its generated, and little or nothing is put back into the NOC for the maintenance, development and expansion of the national petroleum industry.[334] Following the argument of this study, it can be said that NNPC falls under this category of NOC.

[328] Peter Cameron and Michael Stanley (n 107) 61.
[329] Ibid., 66-67.
[330] Charles McPherson, National Oil Companies: Ensuring Benefits and Avoiding Systemic Risks, in Andreas Goldthau (ed), *The Handbook Of Global Energy Policy* (Wiley-Blackwell 2013) 146-153.
[331] Patrick R.P. Heller and David Mihalyi, 'Massive And Misunderstood: Data-Driven Insights Into National Oil Companies' (*Resourcegovernance.org*, 2019) <https://resourcegovernance.org/sites/default/files/documents/massive_and_misunderstood_data_driven_insights_into_national_oil_companies.pdf> accessed 27 August 2019.
[332] Ibid.
[333] For example, **SNPC** of the Republic of Congo. Although, one can argue that **NNPC** of Nigeria falls into the same category. See Patrick R.P. Heller and David Mihalyi n 325.
[334] Coby Van der Linde (n 319)108.

On the other hand, the profit seeking NOC, mainly are the commercial NOCs, with commercial competence, skills and efficiency.[335] Equinor falls into this category. While the state supplements NOC rather than play a commercial role, they engage in delivering public services to the state, thereby playing the conventional roles of the government ministries.[336] It is broadly accepted that when it comes to effective petroleum resource governance, strict separation of functions is necessary, and the three primary tasks for every state are policymaking, regulation, and developing operational competence needed for the extraction of petroleum resources.[337] The third one usually falls under the portfolio of the state's NOC. Van der Linde claimed that the government policy choices are the first step to formulate and execute a coherent strategy that would enable the state to benefit from their petroleum resources.[338] According to Gordon and Stenvoll, economic and political factors are the driving factors for a NOC to carry out its vital functional roles.[339] These functional roles of the NOC, according to Gordon and Stenvoll can fall under the categories of national policy tool, social and political tool, development catalyst and commercial enterprise.[340] In their analysis of Equinor, they put forward vital functional roles of the NOC: Wealth re-distribution; Social welfare; National energy policy; Foreign policy; economic development; Regulation and management and wealth creation.[341]

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335 For example, Equinor of Norway. See Patrick R.P. Heller and David Mihalyi n 325.

336 For example, SOCAR of Azerbaijan. See Patrick R.P. Heller and David Mihalyi n 325.

337 Getting a balance of these by the government is very important. As a balance between the regulatory, policymaking, and operational tasks are usually difficult for governments to achieve. Does the state have a fully developed administrative capacity, becomes the important question? See Jonathon Wayne Moses and Bjørn Letnes, (n 47) 66. See also, Coby Van der Linde (n 319) 86-87.

338 Coby Van der Linde (n 319) 86.

339 Richard Gordon and Thomas Stenvoll n 32.

340 Ibid.

341 Gordon and Stenvoll further articulated these roles of the NOC:

1) Wealth Re-distribution: collect and distribute rents via fuel subsidies and other paybacks to the broader populace such as pensions, jobs, etc.
2) Social welfare: job creation, education, scholarships, schools, infrastructure.
3) National energy policy: guarantee supply to domestic economy; subsidize other energy projects
4) Foreign policy: oil diplomacy, alliance formation, developing regional or super power ties
5) Economic development: technology transfer, industrialization, foreign investment, economic diversification(local content requirements and service industry)
6) Regulation and management: participation in direct government share of discoveries; licensing awards; regulatory functions.
7) Wealth creation: financial return and profitability; return to shareholders i.e. government and private investors.

See Richard Gordon and Thomas Stenvoll n 32.

Therefore, in looking at the policies and regulations of Norway and Nigeria, the third part of the role of their NOC in achieving operational competence can then come into play, because for a state to effectively manage their petroleum resources, the NOC is expected to play a dominant role. As already observed in chapter 3, this applies to countries that have established NOCs, and the state retains the right of ownership over their natural resources. This study looked at how these policies and regulations have guided Equinor and NNPC to what they are today, and what could be done for effective petroleum resource management by these NOCs, especially NNPC. Granted that the successful management of a petroleum resource is a complex task and involves many variables, whether at management or operational level, the fact that some NOC - Equinor has some form of success in achieving this, makes successful petroleum resource management attainable.[342]

Corrigan argued the importance of quality and strong institutions and also a NOC that can assist the state in avoiding the much-theorised resource curse, citing Norway as an example of a country that has avoided this resource curse.[343] Cameron and Stanley argued that for there to be a petroleum resource-led development, there needs to be the presence of good institutions, good laws, and regulatory systems.[344] The yardstick for determining what are good laws and regulatory systems are there, but it should be assumed that a system that promotes social and economic growth can be suggested as a good one. With all the Norwegian government achievement in the management of their petroleum resources, Listhaug claimed that there exists a mild form of the resource curse, where some of the Norwegian populace are frustrated that the ever-growing oil fund cannot be touched and spent presently.[345] Although described as a mild form of the resource curse, this study will not consider this form as an impediment to economic growth and sustainable development.

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[342] See Farouk Al-Kasim (n 44) 121-135.
[343] Caitlin C. Corrigan n 212.
[344] Peter Cameron and Michael Stanley (n 107) 29. See also, Lisa Sachs, 'On Solid Ground: Toward Effective Resource-Based Development' (*WPR Worldpoliticsreview.com*, 2013) <https://www.worldpoliticsreview.com/articles/13140/on-solid-ground-toward-effective-resource-based-development> accessed 28 November 2019.
[345] Ola Listhaug, 'Oil Wealth Dissatisfaction And Political Trust In Norway: A Resource Curse?' (2005) 28 West European Politics 834.

Mahdavi further stated that when it comes to the relevance of institutions in the petroleum resource management, and the effective tackling of issues like corruption, transparency and resource curse, NOCs are essential, and a specific institution when strengthened can assist a state in achieving social and economic development through the effective management of their petroleum resource.[346] Likewise, Engen supported this view by expressing the measures Norway undertook to ensure that their institutions were strengthened.[347] Thurber et al. argued that countries like Angola and Nigeria, who have not successfully implemented the separation of functions in the administration of their petroleum resources, coupled with low institutional capacity fall into the category of countries who have not taken advantage of their natural resources to advance their economy. In contrast, Norway's petroleum sector is an exemplary one.[348] They argue that Norway and Nigerian both established a tripartite division of policy, commercial and regulatory functions, albeit Norway's more competent and established bureaucracy enabled growth in the regulatory and policy bodies, while Nigeria's counterpart did not grow.[349]

Al-Kasim et al. claimed the importance of regulations and formal rules as effective procedures to regulate a petroleum industry, regardless of the political will to reform in incidents of violation of these regulations, as they provide a point of reference for assessment.[350] According to Moses and Letnes, Norway was very developed, economically and politically, before the discovery of petroleum, and the discovery only induced essential changes in the manner in which her economy was managed.[351] Norway had already developed some competency in the management of their fish, forestry, and hydroelectricity before petroleum resources, therefore their institutions were already efficient, which made it easy

[346] Paasha Mahdavi n 199. See also, Farouk Al-Kasim, Tina Søreide and Aled Williams, 'Grand Corruption In The Regulation Of Oil' [2008] U4 Anti-Corruption Resource Centre <https://brage.bibsys.no/xmlui/bitstream/handle/11250/2474801/Grand%20Corruption%20in%20the%20Regulation%20of%20Oil?sequence=1&isAllowed=y> accessed 31 January 2019 and D. Boldbaatar, N.C. Kunz and E. Werker, 'Improved Resource Governance Through Transparency: Evidence From Mongolia' (2019) 6 The Extractive Industries and Society 775.
[347] Ole Andreas H. Engen, 'The Development of the Norwegian Petroleum Innovation System: A Historical Overview' in Jan Fagerberg, David C Mowery and Bart Verspagen (eds.), *Innovation, Path Dependency And Policy: The Norwegian Case* (Oxford University Press 2009) 180-181.
[348] Mark C. Thurber, David R. Hults and Patrick R.P. Heller n 21.
[349] Ibid.
[350] Farouk Al-Kasim, Tina Søreide and Aled Williams n 340.
[351] Jonathon Wayne Moses and Bjørn Letnes (n 47) 47.

for the management of petroleum resources.[352] Ingen et al. further claimed that how Norway's administration managed their petroleum resources, led to sustainable development and economic growth for an extended period, and this structured approach to petroleum policies should be emulated, especially by Nigeria.[353]

According to Ramírez-Cendrero and Wirth, the comprehensive separation between policy, commercial, and technical supervisory roles among different administrative bodies; state ownership, operatorship of the petroleum resources, and the eventual dominance of the state NOC – Equinor, and finally the careful arrangement that ensured the revenues received from petroleum resources did not enter the fiscal budget.[354] However, that they were delegated to be handled by an independent institution are the critical characteristics of the Norwegian Model.[355] These features they suggested led to the success story of the Norwegian petroleum sector, and they believed that other petroleum resource-rich countries could learn some lessons from the Norwegian Model. Trojbicz and Loureiro emphasise the importance of strong institutions highlighting the technical knowledge which Petrobras gathered over the years, which eventually led to its dominance in the Brazilian petroleum industry.[356] On the other hand, Heller et al. observed that the NNPC of Nigeria has not achieved this, as it has never developed any sound set of commercial priorities.[357] However, it is expected to start developing these commercial abilities once the PIGB is passed.[358]

Petroleum policies and statutory provisions assist any petroleum-rich state to ensure that petroleum exploitation leads to economic development. These provisions can vary from state to state, as it can be predicated on each country's

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[352] Ibid. 63-64. See also, Ole Andreas H. Engen, 'The Development of the Norwegian Petroleum Innovation System: A Historical Overview' in Jan Fagerberg, David C Mowery and Bart Verspagen (eds.) (n 341) 181-183.
[353] Chiara van Ingen, Requier Wait and Ewert Kleynhans n 74.
[354] Juan M. Ramírez-Cendrero and Eszter Wirth n 81.
[355] Ibid.
[356] Beni Trojbicz and Maria Rita Loureiro, 'Brazilian Oil Sector Reforms: The Role Of Technical Know-How And Corporate Ethos In Petrobras's Dominance' (2018) 118 Energy Policy 588.
[357] Patrick R.P. Heller, Paasha Mahdavi and Johannes Schreuder, 'Reforming National Oil Companies: Nine Recommendations' [2014] Natural Resource Governance Institute <https://resourcegovernance.org/sites/default/files/documents/nrgi_9recs_eng_v3.pdf> accessed 8 November 2018.
[358] See The Petroleum Industry Governance Bill 2018. See also, 'Analysis Of The Petroleum Industry Governance Bill' (*Yourbudgit.com*, 2019) <https://yourbudgit.com/wp-content/uploads/2017/05/Petroleum-Industry-Governance-Bill-INFOGRAPHICS.pdf> accessed 27 November 2019.

social desire, economy, and political economy.[359] Heller et al. suggested that clear goals and objectives should be set by the state, to properly shepherd the NOC in achieving success in the management of the country's petroleum resources.[360] These policies and statutory provisions give guidelines in protecting the national interest over their petroleum resources. For instance, ownership, control, petroleum revenues and national sovereignty over the nation's petroleum resources.[361]

Successful attempts to effectively harness the benefits from petroleum resources has been achieved by some NOCs. At the same time, some NOCs are not adequate managers of their country's petroleum resources, thus becoming sources of patronage, corruption, and drains on the public treasure chest.[362] Examples of this abound in the Nigerian petroleum sector.

Nonetheless, as earlier expressed in this study, development through petroleum resources can be achieved, and the vital role of a state's NOC cannot be overemphasised.[363] Enhanced economic growth, creation of jobs, increased government revenues, technology transfer, infrastructure improvement and advancement of related sectors are some of the potential benefits put forward by supporters of petroleum-led development.[364] In line with the preceding, Ajakaiye et al. in their work, concluded that Nigeria's use of their petroleum resources to achieve development has not been successful, as one would expect from a petroleum-rich nation, although there are signs of encouragement.[365] For instance, Graham and Ovadia suggested that the use of local content policies in the Nigerian petroleum sector is a positive step on the part of the government. However, problems of effective implementation and institutional capacity abound.[366]

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[359] Martin M. Olisa, 'Comparison Of Legislation Affecting Foreign Exploitation Of Oil And Gas Resources In Oil Producing Countries' (1972) 10 Alberta Law Review 487.
[360] Patrick R.P. Heller and David Mihalyi n 325.
[361] Martin M. Olisa n 352.
[362] Patrick R.P. Heller, Paasha Mahdavi and Johannes Schreuder n 350.
[363] See Patrick R.P. Heller and David Mihalyi n 325.
[364] Terry Lynn Karl (n 84). See also Peter Cameron and Michael Stanley (n 107) 20-21.
[365] Olu Ajakaiye, Paul Collier and Akpan H. Ekpo, 'Management of Resource Revenue Nigeria' in Paul Collier and Anthony J. Venables (eds), *Plundered Nations? Successes And Failures In Natural Resource Extraction* (Palgrave Macmillan 2011) 257.
[366] Emmanuel Graham and Jesse Salah Ovadia n 111.

Further claims that the shift from a military regime to a democratic government has helped in some ways, in reducing the influence of the military elites, that had little interest in economic development, to economic reform has been a positive step.[367] Arguments, against this perception abound, as these so-called military elites are still very influential in the country. This is evident in the Presidents that have been elected since 1999 when the country moved to a democratic government.[368] Most of the Presidents were former military Generals or former military rulers of the country.[369] The present Nigerian President was a former military ruler, now a democratic president of the country.[370] Vines et al. commented that NNPC has been treated like a 'cash cow' by the government and leaders as it accounts for the majority of Nigeria's foreign exchange earnings, and this has been evidenced throughout the military and civilian governments.[371]

In making a case for strong recommendations or answering the question for a best regulatory framework for petroleum exploitation, Antolín et al. expressed:

> […] given the historical and structural differences across economies, we consider it impossible to provide a "universal answer" to questions raised about the type of ownership structure model or regulatory framework most appropriate to the exploitation of oil and gas reserves.[372]

Scholars or economists that have observed petroleum-rich developing countries, and especially the Nigerian economy in recent times, would agree that this statement is not far from the truth of what is presently obtainable in the country.[373] Today as many developing countries discover vast deposits of crude oil and become petroleum producers, it becomes necessary for these countries to know how to manage these natural resources to benefit the people of the country. As a result, it is possible to say that economic growth can be tied to petroleum

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367 See Theodore Okonkwo n 192.

368 See Justin Findlay, 'Presidents And Military Leaders Of Nigeria Since Independence' (*WorldAtlas*, 2019) <https://www.worldatlas.com/articles/nigerian-presidents-and-military-leaders-since-independence.html> accessed 16 November 2019. See also, Nitya Singh n 186.

369 Wole Soyinka, 'Opinion | Lessons From Nigeria's Militarized Democratic Experiment' (*The New York Times Nytimes.com*, 2019) <https://www.nytimes.com/2019/10/09/opinion/nigeria-militarized-democratic-experiment.html> accessed 16 November 2019.

370 Ibid.

371 See Alex Vines and others n 295.

372 María José Paz Antolín and Juan Manuel Ramírez Cendrero n 13.

373 See Emmanuel Graham and Jesse Salah Ovadia n 111.

resources. As is well known today, petroleum development connects and cuts across different levels of development in a country. From access to energy, energy security, food, water, policies, the list can be lengthy, but the point is that energy importance in the development of a country is inestimable and even critical for a petroleum resource-rich developing country.[374]

Equinor has developed a commercial capacity, home and abroad, while NNPC on the other hand, has never developed a coherent set of commercial priorities, and seems to lack a strategy that can lead to a profitable portfolio for the state company.[375] As stated in the previous chapters, when it comes to petroleum resource management, the institution that matters is the NOC. Although looking at a petroleum industry holistically, specific institute roles come into focus. By the preceding analysis, petroleum became a "prize" for controlling the government, and also provided the means of sustaining this control, and mostly the ruling class or elite group.[376] One can argue that this scenario will be more revealed in Nigeria than in Norway.

A point often overlooked when comparing Norway to another petroleum-rich state, is that the global context of petroleum exploration and production has changed dramatically, from what it is today, as Moses and Letnes have argued the options that were available to Norway that are no longer available today.[377] Hence the narrow arguments put forward for the progress of NOCs, or the use of NOC by a petroleum-rich state to achieve development, value creation and proper management of a states petroleum resources. The question of what can be learnt from a country that has used their NOC to achieve, and most importantly, what was learnt, are the lessons applicable to the said country and finally how can the lessons be put into action. Gordon and Stenvoll, in their paper, argued the need

[374] Gilles Carbonnier and Fritz Brugger in Andreas Goldthau, *The Handbook of Global Energy Policy* (n 324) 65.
[375] Patrick R.P. Heller, Paasha Mahdavi and Johannes Schreuder n 350.
[376] See Inge Amundsen, 'Drowning In Oil: Angola's Institutions And The "Resource Curse"' (2014) 46 Comparative Politics 169.
[377] They argued further that it has become complex for states to govern their economies, as the global trade and investment landscape are now shrinking and putting constrains on the extent of any states sovereignty. Jonathon Wayne Moses and Bjørn Letnes (n 46) 17, 39.

for competition, as it is a powerful tool in advancing a progressive evolution of a state's NOC, concerning Equinor.[378]

6.4.2 Equinor and NNPC Commercial Frameworks

Analysis majored on of the upstream petroleum industry of the two states, as that is where the highest revenue is generated by a state's NOC. According to Moses and Letnes, one of Norway's steps to autonomy in its petroleum sector was the creation of its NOC, and this helped the state to develop national competence in the petroleum sector, which could compete and in due course challenge the IOCs in the petroleum sector.[379] Today, the evidence of the competence of Equinor, Norway's state-owned petroleum company, is there for all to see.[380] Equinor has a strong presence in Norway's domestic petroleum industry, and also in the global petroleum industry.[381] These should be the ultimate goals of every NOC in a petroleum-rich state. The Chinese NOCs in recent times have shown competence in the global petroleum sector, although China is not considered a petroleum-rich country.[382] In line with these arguments, Van der Linde tied the success of any NOC, to the level of autonomy given by the government, as this independence will give the NOC the aptitude to adopt and implement suitable management methods and market strategies.[383] The freedom to operate in the major parts of the petroleum industry value chain is critical. Some governments limit their NOCs with regard to their operations in the value chain of the industry – exploration,

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[378] They proposed the evolution of a state's NOC, in tandem with the petroleum sector, and as the petroleum sector matures. Which raises the question, can one consider the Nigerian petroleum sector a mature sector? See Richard Gordon and Thomas Stenvoll n 32.

[379] Jonathon Wayne Moses and Bjørn Letnes (n 47) 78.

[380] Albeit, the Norwegian government holds over 65% of its shares. Also, contrary to Van der Linde's assertion that when a government is the major shareholder in an NOC, this limits the ability of the NOC to expand internationally. See Coby Van der Linde (n 319) 154.

[381] See 'Where We Are - Present In More Than 30 Countries - Equinor.Com' (*Equinor.com*, 2019) <https://www.equinor.com/en/where-we-are.html> accessed 16 November 2019.

[382] See Jilles Beukel, John V. Mitchell and Katie Treadwell, 'Chinese National Oil Companies: Giants Built On Quicksand' (*Energy Post*, 2016) <https://energypost.eu/chinese-national-oil-companies-giants-built-shaky-foundations/> accessed 16 November 2019; 'Chinese Nocs' Expansion' (*Oil & Gas Journal*, 2013) <https://www.ogj.com/general-interest/companies/article/17240785/chinese-nocs-expansion> accessed 16 November 2019, and Nicholas Woodroof, 'China's Nocs To Be Fourth Highest Upstream Investors In Africa Over Next Five Years, According To Globaldata' (*Oilfield Technology*, 2019) <https://www.oilfieldtechnology.com/special-reports/24062019/chinas-nocs-to-be-fourth-highest-upstream-investors-in-africa-over-next-five-years-according-to-globaldata/> accessed 16 November 2019.

[383] Coby Van der Linde (n 319)105.

production, refining, marketing and petrochemicals all fall under the value chain.[384] For instance, according to Carvalho and Goldstein the international expansion and growth strategy of Brazil and China's NOCs is an outcome of several economic and political conditions which assisted their NOC internationalisation, thus showing the vital roles these governments played.[385]

Fiscal Regimes

The petroleum industry is no stranger to governments reviewing their fiscal terms, and this is not usually limited to developing countries, but also developed countries. Moses and Letnes summed up the primary objective of every government's fiscal system, as one that should employ suitable contracts and fiscal tools that are attractive to IOCs, which leads to inflow of foreign capital and expertise, and at the same time is firm enough to keep safe and deliver the petroleum resource rent to the people of the country as the petroleum resources belong to the people.[386] According to them, Norway managed to achieve this, albeit to what degree?[387] What is the yardstick to ascertain this, as the commercial frameworks in the petroleum industry are complex, and not easily assessable to the general public? Le Leuch argued that a balance of interests between the host country and investors are what these frameworks attempt to achieve.[388]

Therefore, in ensuring that adequate petroleum resource rent accrues to government, and securing the state's share of the petroleum resource wealth, efficient commercial frameworks are very vital, because it is through these frameworks that the petroleum resource rent is delivered to the people, thus creating value, and supporting the social and economic development of the

[384] Ibid, 105-106.
[385] Flavia Carvalho and Andrea Goldstein, 'The 'Making of' National Giants: the International Expansion of Oil Companies from Brazil and China in Wilfred Dolfsma, Geert Duysters and Ionara Costa (eds.), *Multinationals And Emerging Economies :The Quest For Innovation And Sustainability* (Edward Elgar 2009) 122-123.
[386] Jonathon Wayne Moses and Bjørn Letnes (n 46) 125.
[387] Ibid.
[388] Honoré Le Leuch, Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, Fiscal, and Legal issues, in Andreas Goldthau (ed) (n 324) 128. See also, Alexander Huurdeman and Anastasiya Rozhkova (eds.), *Balancing Petroleum Policy* (The World Bank 2019) and See Lisa E. Sachs and others, 'Impacts of Fiscal Reforms on Country Attractiveness: Learning from the facts' in Karl P. Sauvant (ed), *Yearbook On International Investment Law & Policy 2011-2012* (Oxford University Press 2013).

country.[389] In determining the government share of the extraction of petroleum resources, one must ascertain the type of contractual or licensing regime, and the type of government's fiscal system in place.[390] Poplawski-Ribeiro et al. in their paper suggested that as a guiding principle in designing fiscal policies, these policies must take into account country-specific economic and institutional circumstances, such as petroleum resource dependency, as observed in Nigeria, the developmental needs of the state and the petroleum reserves outlook.[391] Therefore, the goal for any petroleum resource-rich country is to achieve a more flexible fiscal framework, to allow the state to promote economic and social development through petroleum resources.[392]

Licensing arrangements mainly determine how petroleum rent and cost will be allocated between the host government (and its NOC) and IOCs.[393] Notably, the 'carrying' clause, that can be seen in many licensing arrangements today, seeks to promote a commercial NOC cause in the host country as a means of reducing the nation's risk.[394] As evidenced through the history of the global petroleum industry, when it comes to the petroleum resource extraction, countries usually draw on four significant types of contract: Concessions (royalty/tax) agreements (CAs), joint ventures (JVs), production sharing contracts (PSCs), and service contracts (SCs). These various types of contract usually offer different levels of risk, reward, and control to the host country. However, today within these types

[389] Moses and Letnes stated that petroleum resource rents are gifts to the people of the country, therefore the maximisation of the size of this gift to the people is what the government embarks on in each of its contract types. See Jonathon Wayne Moses and Bjørn Letnes (n 46) 101, 106, 125.

[390] Furthermore, according to Moses et al. the flawed assertion that the choice of the contracting regime determines the government take, is usually not obtainable as it is well known to petroleum industry practitioners and analysts, that as always "the devil, lies in the detail", as there are so many types contractual arrangements and revenue system, which makes it difficult to infer from a particular case or country commercial frameworks. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 101. See also Honoré Le Leuch, Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, Fiscal, and Legal issues, in Andreas Goldthau (ed) (n 324) 135-136.

[391] Marcos Poplawski-Ribeiro and others, 'Fiscal Frameworks For Resource Rich Developing Countries' (2012) 12 IMF Staff Discussion Notes.

[392] Ibid.

[393] Jonathon Wayne Moses and Bjørn Letnes (n 47) 103.

[394] Carrying Clauses supports an NOC with the revenue and experience to develop the state's petroleum resources, while reducing its exposure to risk. Usually, these NOCs are carried through the exploration phase as a working partner, although it does not pay any exploration costs, as a means of reducing the NOCs financial risk, but when the well is ascertained commercial, then the NOC has the option to partner with the IOC, and would then be expected to pay its fair share of the development and operation costs. Then the government would be said to have taken up a "working interest" or "backs in". See Jonathon Wayne Moses and Bjørn Letnes (n 47) 103,126. See also, Peter Cameron and Michael Stanley (n 107) 73-81. See also, A Timothy Martin, 'Model Contracts: A Survey Of The Global Petroleum Industry' (2004) 22 Journal of Energy & Natural Resources Law 281.

of contracts, there have been subtle distinctions and evident overlap among these contract types.[395]

Concessions (Royalty/Tax) Agreements

Under the concession, the government concedes ownership of petroleum resources for a stipulated period, and receives royalties and taxes as payment.[396]

Joint Ventures (JVs)

There are many forms and variations of JVs. However, fundamentally they are a form of partnership between two or more parties, usually between IOCs and a NOC, but can also include several IOCs, or even a mix of NOCs and IOCs.[397] JVs allow partners to share in the high levels of risk and capital, which the petroleum industry is known for, that is the JVs are considered attractive.[398]

Production Sharing Contracts (PSCs)

Under PSCs, the state retains its ownership of the petroleum resources, and upon invitation, the IOCs develop the petroleum sector of the state.[399]

Service Contracts (SCs)

As in PSCs, the government retains ownership of the petroleum resources in the ground, and the IOCs are usually hired as a subcontractor and paid a fee for their services.[400] How a government employs securing petroleum resource rents for the

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[395] Often reliant in the part of the world were any of these contract types are used, there structure has gradually been altered to indicate the bigger state influence and power over their petroleum resources. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 105.

[396] Sometimes referred to as Royalty or Tax system. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 104. See also Honoré Le Leuch, Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, Fiscal, and Legal issues, in Andreas Goldthau (ed) (n 324) 132-133.

[397] Jonathon Wayne Moses and Bjørn Letnes (n 47) 104.

[398] Considered to be a useful tool for transfer of competence across partners, usually from IOCs to NOCs, and in the present global petroleum industry, where there are commercial NOCs, there can be a transfer of competence from NOCs to NOCs. Also, it is usually seen as a partnership, than as a contract type, as JV arrangements can be located within other forms of contract arrangement, for example, in CAs and PSCs. Ibid. 104.

[399] In the global petroleum industry, this form of contract is the most common one. The responsibility for exploration and production is borne by the IOCs, in extension the investment risk. Although, the IOCs are usually reimbursed for the cost of production in form of oil (cost oil), when the E&P is successful or commercially viable. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 104. See also Honoré Le Leuch, Recent Trends in Upstream Petroleum Agreements: Policy, Contractual, Fiscal, and Legal issues, in Andreas Goldthau (ed) (n 324) 133-134.

[400] Usually, the service contractors were limited to different stages of the production, like the exploration, drilling, development, but today hybrids are more common. From technical assistance contracts to pure service contracts with little or no risks involved, to risk service contracts, with levels of risks, shows the various scope and degree of risks involved. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 105.

state, is what the fiscal systems are about, although these fiscal particulars can be obtained in the contract arrangement the state agrees with IOCs or NOCs as the case may be.[401] State participation in a petroleum development project might be motivated by non-fiscal objectives, such as knowledge transfer. However, these projects will always have a tax or fiscal dimension too.[402]

In securing the more significant amount of petroleum resource rent, Moses and Letnes put forward four primary forms of fiscal tools used by the government to achieve these.[403] They are participation/equity, royalties, taxes/fees/bonuses and investment incentives.[404] It is difficult to generalise the particular fiscal tool a country uses, as these tools vary from country to country and these countries use a plethora of fiscal tools to secure the state's share of the petroleum resource rent.[405] Norway employed a concessionary system in its petroleum sector, although it is different from the concession system obtainable in the global

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[401] Ibid 106-107.

[402] Participation in production and profits is the major motivation. See Peter Cameron and Michael Stanley (n 107) 160.

[403] Also, the manner in which these tools are used by the government, usually differs depending on the contract type. See Jonathon Wayne Moses and Bjørn Letnes (n 46) 107.

[404] Participation/Equity: NOC of the host nation usually plays a role, as through it the state secures its share of revenue, and also ensures that the petroleum resources reach the market. NOCs are able to participate directly in the economic activity, and earn its proportionate share of the return, and the PSCs, JVs, carried interest clauses, and other various profit-sharing measures enable the state, usually through its NOC to achieve that.

Royalties: There are various forms of royalty arrangements, and also what particular time the royalties are determined. For example, would the royalties be determined at the wellhead, at/in the field, block boundary, export terminal, and so on. Royalty arrangements are usually distinguished between a fixed percentage arrangement and the ones with sliding scale.

Taxes/Fees/Bonuses: often used by governments, as the use of revenue instruments, and a number of other instruments at its disposal. The use of taxes, like the corporate income, dividend withholding, transfer, transit, environmental, and so on. Furthermore, the government can implement fees, levies and also ask for bonus payments. For example, signing bonuses, discovery bonus, and production bonus.

Investment Incentives: this instruments are usually agreed upon during the contract negotiation, as these instruments are beneficial to the IOC, and assist them in reducing the cost of production. Both parties (government and IOC) agree over what would be regarded as a legitimate cost of production. These incentives are numerous, from tax credits; tax holidays; accelerated depreciation; exempting duties on imported equipment and capital goods, and so on. Albeit, that is why the host government and the IOCs have to decide on which of the investment incentives will be applicable the contract arrangement.

See Jonathon Wayne Moses and Bjørn Letnes (n 46) 108-109. See also, Peter Cameron and Michael Stanley (n 107) 149-160.

[405] Possibilities of differentiating between a tax-based and production-based systems, but for the state to secure larger share of the petroleum resources rent is usually contingent on the skill of the host nation's skill in negotiating a beneficial deal for the state, and the manner of assemblance of the fiscal tool menu. See Jonathon Wayne Moses and Bjørn Letnes (n 46) 110.

petroleum industry, as Norway did not give up their ownership of their petroleum resources.[406]

According to Moses and Letnes, Norway's concession system differed from the standard concession system and was often changed as time went on, which makes it challenging to encapsulated.[407] Central to the difference between the Norwegian concessions system lie several characteristics. First, the concession was negotiated, the MPE examined and negotiated with the applicants, and created a JV.[408] The second characteristic of this concession system was the need for Norway to build competence and expertise in the petroleum sector through local content policies, and other government requirements that encouraged Norwegian participation in the sector.[409] The ever-evolving Norway concession system, as some states are blessed with petroleum resources, set out to attract IOCs, and later the concession system sought to increase government participation, the establishment of their NOC, and through this process and more, the state gained expertise and competence in the petroleum sector.[410] The use of NOCs or NRCs as Cameron and Stanley term it are is the most common vehicle in which the state ensures its participation in the petroleum sector, and they argued that active participation can still be achieved without the use of NOCs or NRCs as a government tool to achieve this.[411]

According to Moses and Letnes, the Norwegian government use many instruments to secure its petroleum resource rent, and these instruments have changed over time, thus making it difficult for a critical analysis of these instruments without deviating from the central theme of the thesis.[412] There is no doubt that the use of taxes on the petroleum sector and the SDFI are the primary source of the

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[406] Based on the country's earlier experience in effectively regulating their hydroelectric industry, Norway ensured it secured her sovereignty and ownership over her natural resources. See Ibid 111. See also, Peter Cameron and Michael Stanley (n 107) 59.
[407] Jonathon Wayne Moses and Bjørn Letnes (n 47) 111, 113.
[408] This JV could be a group of companies or a license group. Further, as already established the state needed to exert its ownership over its petroleum resources, thus the MPE had a large control over the decisions, and the constitution of this group of companies. See Jonathon Wayne Moses and Bjørn Letnes (n 47) 111.
[409] Ibid 113.
[410] Use of carried interest clauses assisted Norway to launch their NOC and their petroleum industry. See Ibid 114.
[411] Peter Cameron and Michael Stanley (n 107) 121-122.
[412] See Jonathon Wayne Moses and Bjørn Letnes (n 47) 119.

Norwegian government petroleum resources revenues.[413] Important to note, that Petoro and Equinor continue to add to the Norwegian governments take, as well as licence holders and operators.[414]

It has been established that most reserves in the world are state-owned and controlled. In some countries, reserves are exclusively owned and operated by state-owned oil and gas companies; in others, the state or state company contracts with IOCs to carry out development projects and exploration.[415] The process of licensing in the Nigerian petroleum industry is an essential factor in sector governance. Nigeria uses the PSC and Service contract in its upstream petroleum sector. The use of a mixed regime is usually tied to the political system in the country.

Hammerson claimed that this could be a reason for Shell's initial involvement in the sector before the country's independence.[416] Before the President Obasanjo's administration (1999 – 2007) introduced an open competitive bidding system in 2000, the Head of state or Minister awarded oil blocks to be charged less than their value to resell at a margin.[417] Today, the Petroleum Act (Laws of the Federal Republic of Nigeria (LFN)) 2004 governs and regulates the exploration, production and distribution of petroleum products in Nigeria.[418] Further, mineral rights to develop petroleum reserves are transferred through statutory instruments of Oil Exploration Licences (OELs), Oil Prospecting Licences (OPLs), and Oil Mining Licences (OMLs) by the Ministry of Petroleum Resources through DPR.[419] Under statutory provisions, OEL holders have no exclusive rights over the area of the

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[413] Ibid 119-124.

[414] Jonathon Wayne Moses and Bjørn Letnes (n 47) 124.

[415] John Mitchell, Valérie Marcel, and Beth Mitchell, 'Oil and Gas Mismatches: Finance, Investment and Climate Policy' (Chatham House 2015) <https://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20150709OilGasMismatchesMitchellMarcelMitchellUpdate.pdf> accessed 11 January 2017.

[416] See Marc Hammerson, 'Legal Concepts: Introduction To Oil And Gas As An Asset Class', *Three-day Workshop for National Oil Companies* (Stephenson Harwood LLP 2020).

[417] Alex Gboyega and others, 'Political Economy Of The Petroleum Sector In Nigeria' [2011] World Bank Policy Research Working Paper 5779 <https://www.researchgate.net/publication/228119351_Political_Economy_of_the_Petroleum_Sector_in_Nigeria> accessed 14 August 2019. See also Gbolahan Elias and Okechukwu J Okoro, 'Nigeria' in David L. Schwartz (ed) (n 137) 244-246.

[418] Petroleum Act, Cap P10, Laws of the Federation of Nigeria (LFN) 2004.

[419] See First Schedule to the Petroleum Act.

granted licence, and this granted right does not preclude the grant of another OEL or an OPL or an OML over the same area.[420]

OEL, OML and OPL are held by the companies under the agreement and operating structure of PSCs with NNPC, the state's NOC.[421] Since its introduction in 1993, PSCs have been seen to be convenient for the Nigerian government as it offers a revenue-stream while removing the burden of cash calls, in the earlier arrangement of joint venture agreement regime, as the Nigerian government – NNPC, did not meet its obligations of cash calls.[422] The upstream industry in Nigeria is subject to the Petroleum Profits Tax Act (PPTA) of 2004, which applies exclusively to the oil sector.[423] Upstream companies are also subjected to royalty, signature and production bonuses.

The oil producers pay royalties on the value of oil extracted.[424] The rates of royalty vary by the nature of contractual arrangement (PSC or JV), the type of drilling (onshore or offshore), and the depth at which petroleum is available.[425] The Petroleum Act (1969) requires the holder of an Oil Prospecting Licence (OPL), or an Oil Mining Lease (OML), to pay royalties to the Federal Government of Nigeria as soon as production starts.[426] This tax is applied to profits minus expenses and allowable deductions (interest and royalty payments, depreciation of capital, and others).[427] The statutory tax rate is 85 per cent, which is quite high. Accordingly, individual tax rates, apply to new companies and PSCs.[428] For JVs, a series of incentives are also available.

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420 Ibid.
421 Ibid.
422 See Israel Aye and others, 'Nigeria' in Christopher B. Strong (ed.), *The Oil And Gas Law Review* (6th edn, Law Business Research Ltd 2018) 233.
423 The Petroleum Profits Tax Act Cap P 13 LFN 2004.
424 Alex Gboyega and others n 410.
425 Ibid.
426 The royalty rates currently applicable are as follows: on-shore production – 20%; offshore production up to 100metres water depth 18 ½%; offshore productions between 100 to 200 metres water depth 16 2/3%; in areas from 201 to 500 metres water depth 12%; in areas from 501 to 800 metres water depth 8%; in areas from 801 to 1, 000 metres water depth 4%; in areas in excess of 1, 000 metres water depth 0%.
KPMG Advisory, 'Nigeria's oil and gas industry brief KPMG professional services' (2014) <http://www.blog.kpmgafrica.com/wp-content/uploads/2016/10/Nigerias-oil-and-gas-Industry-brief.pdf> accessed 8 January 2019.
427 See Alex Gboyega and others n 410.
428 Ibid.

Consequently, while the law provides for a high tax rate, this rate is combined with a series of concessions and incentives depending on the nature of the contract and the stage of production.[429] The pending PIGB is supposed to replace the existing laws governing the petroleum sector. When compared with its peers in west Africa and practices in other oil-producing countries, Nigeria's royalty and profits tax rates are high. However, at the same time, Nigeria gives substantial incentives and allowances.[430] For instance, it makes the fiscal regime competitive by giving a 50 per cent tax allowance, and it provides for a sliding scale royalty, depending on water depth and differences in production costs.[431]

Finally, it is not new that the absolute success of a fiscal framework will depend on the political commitment to implement these policies assets.[432] For examples of proposed fiscal framework guidelines for a petroleum resource-rich country, see Appendix 2, 3, and 4. Significant also is the government wealth funds: Government Pension Fund Global – Norway; Excess Crude Account - Nigeria /Nigeria Sovereign Investment Authority – Nigeria – Both funds objectives are for stabilization and saving.[433] The proposed PIGB did not detail fiscal arrangements like taxes and royalties. Hence the study relied on the subsisting arrangements for analysis.

6.5 Conclusion: NOC for the Future

A vital factor to consider according to Cameron and Stanley is the legal standing of a NOC, and they further argued that a NOC should be a separate legal entity, established under the country's corporate laws and not part of the government department or Ministry of petroleum.[434] This leads to a profit-driven and productive enterprise, not one that would be used for political purposes or social objectives.[435] For Nigeria, this is the target in the PIGB when it is passed. The

[429] Ibid.
[430] Ibid.
[431] Ibid.
[432] See Marcos Poplawski-Ribeiro and others n 384.
[433] See Peter Cameron and Michael Stanley (n 107) 191.
[434] Ibid., 125.
[435] Ibid.

promotion of transparency and accountability; to establish a framework for the creation of commercially viable petroleum entities; to create governing institutions with clear and separate roles and finally to foster a conducive environment for petroleum industry operations were the main objectives of the bill.[436] Achieving these would go a long way to redressing some of the defects in the Nigerian petroleum industry. Although there are still a few reservations on the possibilities of attaining these goals.

Aligning with the arguments of this study, the NOC role is an ever-changing one and can be seen with the evolution of Equinor. For NNPC there is an inherent need for improvement, but this cannot be a fast-tracked improvement or quick-fix, as "one must learn to crawl before one can walk". Important to note the enormous difference between the Norwegian and Nigerian population. Must be noted Equinor serves over 5 million people, while NNPC is expected to serve over 180 million people.[437] Thus the case for a genuinely independent NOC grows. For Nigeria, that is what the PIGB intends to accomplish. The creation of a NOC independent of government interference and a body corporate, registered under the companies affairs commission becomes paramount if the state has to achieve development through petroleum resources.

Today, the level of state guidance over the petroleum sector of Norway has somewhat reduced, probably because Norway is now internationally competitive. With the declining natural resources, the state has started to see its future after petroleum resources.[438] This was evident in the thinking behind the rebrand, and renaming of Statoil to Equinor.[439] Moses and Letnes argued that the Norwegian Model was the only practical model that safeguarded Norway's infant petroleum industry, and this model today is becoming less necessary.[440] Al-Kasim asserted

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[436] See Section 1 The Petroleum Industry Governance Bill 2018.

[437] See 'Nigeria Population (2019) - Worldometers' (*Worldometers.info*, 2019) <https://www.worldometers.info/world-population/nigeria-population/> accessed 20 November 2019 and 'Norway Population (2019) - Worldometers' (*Worldometers.info*, 2019) <https://www.worldometers.info/world-population/norway-population/> accessed 20 November 2019.

[438] Jonathon Wayne Moses and Bjørn Letnes (n 46) 94.

[439] See Jonas Cho Walsgard and Mikael Holter, 'Statoil No Longer Wants 'Oil' In Its Name' (*Bloomberg.com*, 2018) <https://www.bloomberg.com/news/articles/2018-03-15/statoil-changes-name-to-remove-oil-in-renewable-energy-push> accessed 20 November 2019. See further, ''Thank You Statoil! It's Been A Pleasure': Oil Major Changes Name | Financial Times' (*Ft.com*, 2018) <https://www.ft.com/content/071bba1a-282e-11e8-b27e-cc62a39d57a0> accessed 20 November 2019.

[440] Jonathon Wayne Moses and Bjørn Letnes (n 46) 94.

that the unambiguous organisation separation between Norwegian Petroleum Directorate (NPD) - Ministry and Equinor is fundamentally the Norwegian Model.[441] The global petroleum landscape has evolved from what it used to be in the 1970s, as today the push for energy mix and diversification is the central theme in the industry, for countries have started looking at life beyond petroleum resources.[442]

The views on the continued importance of petroleum resources continue to be divided, as more reserves continue to be discovered, although in developing countries.[443] The underlying question becomes if a developing country has abundant petroleum resources, why should they not leverage it for social and economic development? In reiterating the arguments in chapter 2 of this study, petroleum is and will still be an essential natural resource for the foreseeable future. Any country that has an abundance of it can leverage these resources as a ladder towards economic development, especially if the country is a developing one like Nigeria. According to Al-Kasim, the slogan of petroleum resource development 'for the benefit of all the people' should be the foremost objective of any petroleum-producing state and government.[444]

According to Onoh, Nigeria was ill-experienced and ill-equipped for the petroleum business during the early stages of their petroleum industry.[445] However, it is still arguably relevant to the present day Nigerian petroleum industry, as the country's petroleum sector is synonymous with the natural resource curse, rent-seeking, and corruption, amongst other things.[446] The clear and transparent performance

441 Farouk Al-Kasim (n 44) 248.

442 See Anjli Raval and Andrew Ward, 'Saudi Aramco Plans For A Life After Oil | Financial Times' (*Ft.com*, 2017) <https://www.ft.com/content/e46162ca-d9a6-11e7-a039-c64b1c09b482> accessed 20 November 2019; 'Saudi Arabia's Grand Plan To Move Beyond Oil: Big Goals, Bigger Hurdles' (*Nytimes.com*, 2017) <https://www.nytimes.com/2017/10/25/world/middleeast/saudi-arabias-grand-plan-to-move-beyond-oil-big-goals-bigger-hurdles.html> accessed 20 November 2019 and Adam Vaughan, 'BP Aims To Invest More In Renewables And Clean Energy' (*the Guardian*, 2018) <https://www.theguardian.com/business/2018/feb/06/bp-aims-to-invest-more-in-renewables-and-clean-energy> accessed 20 November 2019.

443 See Julianne Geiger, 'The Biggest Oil & Gas Discoveries Of 2019 | Oilprice.Com' (*OilPrice.com*, 2019) <https://oilprice.com/Energy/Energy-General/The-Biggest-Oil-Gas-Discoveries-Of-2019.html> accessed 20 November 2019; 'New Oil And Gas Discoveries In 2018 | IFPEN' (*Ifpenergiesnouvelles.com*, 2019) <https://www.ifpenergiesnouvelles.com/article/new-oil-and-gas-discoveries-2018> accessed 20 November 2019, and 'Namibia Sees 11 Billion Barrels In Offshore Oil Reserves - Eco (Atlantic) Oil & Gas Plc' (*Eco (Atlantic) Oil & Gas Plc*, 2019) <https://www.ecooilandgas.com/namibia-sees-11-billion-barrels-in-offshore-oil-reserves/> accessed 20 November 2019.

444 Farouk Al-Kasim (n 44) 241.

445 See J. K Onoh (n 58) 22-23.

446 Ibid.

benchmarks suggested by NRGI are solutions for ensuring that governments maximise their prospects of success.[447] The debate about transparency as a critical solution on its own cannot possibly lead to a valid NOC, or create a NOC that is a success story based on its high level of transparency.[448] According to Westenberg, transparency is only a starting point.[449] According to Manley et al., NOCs remain non-transparent, and they suggest that for the successful management of a nation's petroleum resources, there has to be more transparency in the governance and management of the states' NOC to begin with.[450] Indeed transparency is a significant factor in ensuring NOC success, but it cannot be viewed as the bedrock or benchmark for a valid NOC. Many NOCs have achieved some form of success without being fully transparent, as the petroleum industry prides itself in holding back information, and industrial secrets are a means of advancing each company's cause in every region.[451]

Company expenditure; the distribution of transfers to government across fiscal vehicles and jurisdiction; and the composition of NOC production are the indicators NRGI identified as essential markers for strong citizen oversight of their NOCs.[452] Stiglitz proposed democracy, consensual and transparent processes as ways to

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[447] See 'The National Oil Company Database' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/national_oil_company_database.pdf> accessed 22 July 2019. See also, D. Boldbaatar, N.C. Kunz and E. Werker n 340.

[448] Jones of Energyx Partners stated:

> It is essential to have transparency, openness and trust, and that is not easy […]

Furthermore, achieving the right balance and a sense that each side is getting a fair share of the value created is tricky, particularly on the NOC side, where there are often suspicions over being taken advantage of. See Peter Ramsay, 'ADNOC Joins The Trading Party' (*Petroleum-economist.com*, 2019) <https://www.petroleum-economist.com/articles/corporate/finance/2019/adnoc-joins-the-trading-party> accessed 28 March 2019. See also, Alexander Malden n 62; Peter Cameron and Michael Stanley (n 107) 222-224.

[449] Erica Westenberg, 'Leveraging Beneficial Ownership Information In The Extractive Sector' (*Resourcegovernance.org*, 2018) <https://resourcegovernance.org/sites/default/files/documents/leveraging-beneficial-ownership-information-in-the-extractive-sector.pdf> accessed 26 August 2019.

[450] David Manley, David Mihalyi and Patrick R.P. Heller, 'Hidden Giants: It's Time For More Transparency In Management And Governance Of National Oil Companies' (2019) 56 Finance and Development 56.

[451] There are frameworks in place in Norway but the extent of their commitment to them by their NOC is another argument. See Jonathon Wayne Moses and Bjørn Letnes (n 46) 222-227.

[452] See 'The National Oil Company Database' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/national_oil_company_database.pdf> accessed 22 July 2019. See also, 'Guide To Extractive Sector State-Owned Enterprise Disclosure' (*Resource Governance*, 2019) <https://resourcegovernance.org/sites/default/files/documents/guide-to-extractive-sector-state-owned-enterprise-disclosures_0.pdf> accessed 22 July 2019. See also Rob Pitman and Anne Chinweze, 'The Case For Publishing Petroleum Contracts In Nigeria' (*NRGI Resourcegovernance.org*, 2018) <https://resourcegovernance.org/sites/default/files/documents/the-case-for-publishing-petroleum-contracts-in-nigeria.pdf> accessed 1 December 2019.

ensure that the petroleum wealth of a state is equitably distributed.[453] Correspondingly, in all the literature on the Norwegian petroleum industry experience, Ryggvik claimed that the success of the Norwegian model is a product of an active democracy.[454] This draws on the argument on transparency, and the ultimate goal to use the petroleum resources for the general benefit of the country and not for a select group. The general idea is that these resources be of benefit to the society, and a functional democracy is one that will assist the state in achieving this, going by the Norwegian Model. Therefore, this would mean that even the democratic petroleum-rich developing countries lack some democratic factors, as transparent processes can be argued to be a significant factor of an active democracy.

[453] Joseph Stiglitz, 'We Can Now Cure Dutch Disease' *The Guardian* (2004) <https://www.theguardian.com/business/2004/aug/18/comment.oilandpetrol> accessed 20 March 2019.
[454] See Helge Ryggvik n 65.

CHAPTER SEVEN - CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

It can be concluded that NOCs will be crucial for countries with petroleum resources and the global petroleum resource industry for the foreseeable future. The overall critical analysis of this thesis on NOCs in today's international petroleum industry, were advanced through the lenses of two established petroleum industries: Norwegian and Nigerian. Though, as the thesis demonstrated, there are considerable similarities and differences between the two. The thesis set out to examine the role of NOCs and highlighted the importance of NOCs to a petroleum-rich state and especially a developing country, and in the global petroleum industry. Arguably, the establishment of the first NOCs in general went against the neo-liberal views, Washington Consensus and the drive at liberalisation of the global petroleum industry.[1] Although the extent of the benefits of an NOC model in some countries is yet to be evidenced such as Nigeria, some countries have been reasonably successful with their NOC such as Norway.

There are many arguments against the maintenance of NOCs as a means for a state to own and control their petroleum resources, however this is one viewpoint this thesis did not take. Instead, the study supports the NOC model, with arguments that a petroleum-rich developing country can achieve economic development through the effective management of its petroleum resources, thus leading to significant benefits for the people of the country. Therefore, this makes the NOC more effective and a very significant tool in value creation through active management and engaging in the upstream activities of the petroleum sector of the country.

On the grounds of this research's outcomes and preceding chapters of this study, this chapter proffers a conclusion to the thesis and recommendations for further research. These were guided by the research questions, scope and aims which the research set down in chapter 1, to examine the roles played by NOCs in the global

[1] See Chapter 3.3, Chapter 4.2 and 4.4.

petroleum industry, and most importantly in their domestic or home countries where they seek to achieve economic development and value creation through the effective management of the petroleum resources of the state. These were highlighted in chapter 2 and 3. In chapter 4, an examination was made of the concept of resource nationalism as a driver for some countries to establish their own NOCs, and other concepts that come to bear in this study. In chapter 5 the rentier state theory and the resource curse, assisted the research in answering the research questions and making the salient points that emerged as the research progressed. This critical examination of NOCs was mainly focused on two NOCs: Equinor of Norway and NNPC of Nigeria.

It was determined in the chapter 4 that the two key concepts of resource nationalism are ownership and control, and these concepts are relatively different, as the evidence from each of them leads to a different outcome for a petroleum-rich developing state. A petroleum-rich country might own their petroleum resources, but they will not have control over these resources. Instead, they take a backseat and collect rent from the IOCs, who have control over these petroleum resources. This outcome was further explained in the examination of the rentier state theory in chapter 5. Following the history of the global petroleum industry, control of petroleum resources has always been pivotal in the development of these resources and who benefits or profits from the exploitation of these petroleum resources. This concluding chapter provides a number of general and specific conclusions and seeks to make a recommendation on petroleum resource reforms for a developing petroleum-rich country, in essence, Nigeria. It proposes ways for further research and as well highlights the limitations of the study.

7.2 Summary of Findings

This study examines the various claims that sustainable economic development can be achieved through petroleum resources. This is predicated on the arguments for effective management of these resources. Accordingly, in answering the research questions this study acknowledges the complexity of the effective management of petroleum resources, especially in a developing country, as many factors impact the achievement of the goal of value creation through petroleum resources. As highlighted, many academic commentators including Lahn and Stevens support the view that petroleum-led development can be impacted by political history, power relations, demographic structures, culture, economic structure, geography and level of education.[2] In promoting the use of petroleum resources as a means of achieving economic development and the NOC as the champion for this, it takes a positive stance on resource nationalism, and its components – ownership and control, for a developing petroleum-rich state – Nigeria, at the same time critically looking at the experience of Norway and her NOC. Precept 1, of the Natural Resource Charter, puts the question of ownership as one of the fundamentals of resource endowment, notably this was addressed in chapter 4 of this thesis.[3]

Precept 1: Strategy, Legal Framework and Institutions.

> Resource management should secure the greatest benefit for citizen through an inclusive and comprehensive national strategy, clear legal framework and competent institutions.[4]

Therefore, in line with this study's arguments, ownership is vital to the broader goal of value creation through the effective management of petroleum resources. This argument can be attributed to different sectors of the state, as the positive outlook of nationalisation established in this study. For example, in the United Kingdom, the recent nationalisation of British Northern Rail goes to support this, as the goal is for utmost value creation for the people by this strategy.[5] In addition to ownership arguments, this study included control as a significant factor, especially for a developing petroleum-rich state, as laid out in the arguments of learning-by-doing in chapter 6.[6] It was necessary in the course of the research, to establish that in tackling the objectives of the study, when a state embarks on

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[2] Glada Lahn and Paul Stevens, 'The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development' in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 102.

[3] See David Manley and Rob Pitman, 'Natural Resource Charter Benchmarking Framework' (*Resourcegovernance.org*, 2017) <https://resourcegovernance.org/sites/default/files/documents/natural-resource-charter-benchmarking-framework-report-2017-web_0.pdf> accessed 23 January 2020.

[4] Ibid.

[5] See Tanya Powley and Jim Pickard, 'Northern Rail Franchise To Be Nationalised, Says UK Government' (*Financial Times*, 2020) <https://www.ft.com/content/42a20344-429b-11ea-abea-0c7a29cd66fe> accessed 20 March 2020. See also, Gwyn Topham and Lucy Campbell, 'Northern Rail Franchise To Be Renationalised' (*The Guardian*, 2020) <https://www.theguardian.com/business/2020/jan/29/northern-rail-franchise-to-be-renationalised> accessed 20 March 2020.

[6] See Section 6.3.3.3 of Chapter 6.

petroleum reforms, especially fiscal reforms that would assist the state, and gains more revenue from petroleum resources, it should not be viewed immediately as resource nationalism because the fiscal terms favour the state over the IOCs.[7]

As evidenced by the research findings relevant to most petroleum-rich states, the poverty level in Nigeria is on the rise, as indicated by some that over 90 million Nigerians live in abject poverty.[8] In addition, the level of distrust by people towards the government is believed to be at an all-time high, for example, among the people of the Niger Delta region, where vigorous debates and actions over the ownership of the petroleum resources are raised daily.[9] This study highlights some of the key challenges which a developing petroleum-rich state would face, such as avoiding the natural resource curse (Dutch disease) and becoming a rentier state; corruption and transparency issues which usually go hand in hand with the petroleum industry.

Further, in answering the research questions the study acknowledges that there cannot be a one approach that fits all situations. However, it recognises the vital role a reliable and efficient NOC can play in helping the nation achieve economic development through its petroleum resources, and in some way, improve governance. The problem is a complex one, and this lies at a number of factors including human and technical competence, regulatory, legal and policy challenges which should not be ignored. Today several NOCs have made remarkable progress in the development of petroleum resources domestically and internationally, therefore competing with IOCs.[10] Academic commentators including Bagheri and Di Minin described these NOCs as Global NOCS, International NOCs, NOC Tigers,

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[7] See Lisa E. Sachs and others, ‘Impacts of Fiscal Reforms on Country Attractiveness: Learning from the facts’ in Karl P. Sauvant (ed), *Yearbook On International Investment Law & Policy 2011-2012* (Oxford University Press 2013) 346.

[8] See Sandra Gathmann, 'Nigerian Oil And The Disappearing Money | Start Here' (*Aljazeera.com*, 2020) <https://www.aljazeera.com/programmes/start-here/2020/01/nigerian-oil-disappearing-money-200105132143587.html> accessed 23 January 2020.

[9] See Jimitota Onoyume, 'Lord Lugard Will Never Make Heaven – Prof Darah' (*Vanguard*, 2020) <https://www.vanguardngr.com/2020/03/lord-lugard-will-never-make-heaven-prof-darah/> accessed 7 April 2020.

[10] See Vasanthi Vara, 'Largest Oil And Gas Companies: Ranking The Top 10' (*Offshore Technology | Oil and Gas News and Market Analysis*, 2019) <https://www.offshore-technology.com/features/largest-oil-and-gas-companies-in-2018/> accessed 24 January 2020. See also, Gaurav Agnihotri, 'A Closer Look At The World’s 5 Biggest Oil Companies' (*Oil Price*, 2015) <https://oilprice.com/Energy/Crude-Oil/A-Closer-Look-At-The-Worlds-5-Biggest-Oil-Companies.html> accessed 24 January 2020.

and super NOCs.[11] The claims laid out in this study mainly subscribe and follow the stages of NOC growth, and envisage a situation whereby a NOC from a petroleum-rich developing country could evolve into a Global NOC, and comfortably compete with IOCs and other NOCs with some ease. This study acknowledges this to be one of the ultimate goals for a NOC, especially in the current global petroleum industry. Also, appendix 5 illustrates the power pillars and synergetic effects of NOCs.

Therefore, for those petroleum reform goals as mentioned earlier to be achieved by Nigeria, the support from the provisions stated in the PIGB, which advocate that a truly commercial and company house incorporated state-own petroleum company should be reached.[12] This new NOC under the PIGB should be actively involved in the upstream sector of the Nigerian petroleum industry, individually as an operator. It is worth mentioning that after a long delay, the Nigerian President has sent back the PIGB to the House for consideration. This has carried with it numerous speculations but at the moment the Bill has not been made available to the public.[13]

According to Wegenast et al., the state retains higher petroleum incomes when the extraction is carried out by the NOC of the state, as opposed to reliance on IOCs to carry out the extraction.[14] In this regard, the thesis highlighted the key developments in the Nigerian petroleum sector; under the PIGB, NPRC becomes the new regulator, thereby replacing DPR; while as stated in chapter 6, NNPC will be broken up into two companies – NPC and AMC, both entities commercial and registered under CAMA. Forthwith, if these objectives are carried out, and therefore the state ushers in a truly commercial NOC involved in the upstream

[11] See Seyed K. Bagheri and Alberto Di Minin, 'The Changing Competitive Landscape Of The Global Upstream Petroleum Industry' (2015) 8 The Journal of World Energy Law & Business 1.

[12] See Chapter 6: 6.4.

[13] See Ed Reed, 'Nigeria's PIB Heads To Legislature Once More - News For The Oil And Gas Sector' (*Energy Voice*, 2020) <https://www.energyvoice.com/oilandgas/africa/268339/nigeria-pib-legislature-reform/> accessed 5 October 2020, and Eniola Akinkuoto, 'Buhari Submits PIB To National Assembly, Scraps NNPC, PPPRA In New Bill' (*Punch Newspapers*, 2020) <https://punchng.com/buhari-submits-pib-to-national-assembly-scraps-nnpc-pppra-in-new-bill/> accessed 5 October 2020.

[14] See Tim Wegenast, Arpita Khanna and Gerald Schneier, 'The Micro-Foundations Of The Resource Curse: Ownership And Local Economic Well-Being In Sub-Saharan Africa' [2018] GSDS Working Paper No. 2 <https://kops.uni-konstanz.de/bitstream/handle/123456789/41571/Wegenast_2-fofaixjy8n8a4.pdf?sequence=3&isAllowed=y> accessed 20 March 2020.

petroleum operations, then the following strategies could form part of the guiding principles of this commercial NOC:

1. Efficiency and cost reduction: Important that the NOC carry out their operational duties with efficiency and cost reduction as the focal point of their operation;
2. Technology: The never-ending demand for high technological quality in carrying out their operations whether onshore or offshore;
3. Global and domestic presence: Strategic plans to leave their borders and gain access into new markets, thus having a global presence in the petroleum industry, as well as domestic presence, and
4. Diversification of investment portfolio: Finally, following the recent trend in the global petroleum resource market, the need for NOCs and IOCs alike to diversify their portfolio from petroleum to renewable energy seems to be the trajectory of the industry.[15] Although, 'looking beyond petroleum' seems to be the new campaign, the timeline for achieving these goals is very uncertain at the moment for both IOCs and NOCs.

This thesis examined the Norwegian model NOC and identified valuable lessons for developing petroleum-rich states. Therefore, the analysis and study of these two different countries, their petroleum industry and their NOCs enable a better understanding of the performance of NOCs in the ownership and control context. Thus, the existence of a NOC does not guarantee the same results in effective control of a nation's petroleum resources, as not all countries producing petroleum resources exhibit the conditions in which their NOCs may play a vital role in the petroleum industry, by extension a source of economic development. Therefore it should be beneficial to the average citizen of the petroleum-rich state, as the question will always be, 'how can a petroleum resource-rich state benefit from the exploitation of their petroleum resources? This benefit is therefore achieved when the value is created for the citizens of the state.

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[15] See Anton Oussov, 'Are National Oil Companies The New International Oil Companies?' (*KPMG*, 2018) <https://assets.kpmg/content/dam/kpmg/xx/pdf/2018/08/are-national-oil-companies-the-new-international-oil-companies.pdf> accessed 29 February 2020.

Be that as it may, according to the study, the NOC alone cannot assist a petroleum-rich state in achieving economic development through the abundance of petroleum resources. However, a collective effort has to be made by different sectors and arms of government, although the main focus of this study was on NOC as the leading player, especially in the upstream sector of the petroleum-rich developing state.

7.3 Recommendations for NNPC and Nigerian Petroleum Sector

The passing of the PIGB could go a long way to restructure the upstream petroleum industry of Nigeria. Importantly, there needs to be a form of shield or protection of the upstream petroleum industry from political cycles. So far, there seems to be no continuity from past governments. This could be a case of party politics or a case of crony mentality. Occasions arise when a new party gets into government and there tends to be a move to tweak the petroleum regulations to suit the political party. Petroleum regulations should be tailored to the progress of the industry and not the political parties. Thus, the aim will be for the overall benefit of the entire country and not for a select group or the elites of the country.

Furthermore, Okonkwo claimed that these delays by the Nigerian government to restructure the petroleum industry as proposed have hindered the growth of the state's industry especially the gas (LNG) sector, as some statistics show that Nigeria has the most abundant gas resources in the continent.[16] Although open to debate, the stalling of petroleum industry reform has hindered the growth of this sector and the ability of the state to capture high value from these petroleum resources.

As discussed in the thesis, there need to be specific steps the state has to take concerning NOCs, these are:

1. Strengthen the NOC capacity (institutional) and ensure the vigorous enforcement of the rule of law;

[16] See Omono Okonkwo, 'Nigeria: Gas Is The New Oil [NGW Magazine]' (*Natural Gas World*, 2020) <https://www.naturalgasworld.com/nigeria-gas-is-the-new-oil-ngw-magazine-76629> accessed 24 February 2020.

2. Reduce state intervention in the upstream petroleum sector and adhere to strict budget discipline during the (exploration and production) oil boom;
3. Accumulation of the petroleum revenues in 'fiscal stability fund' or 'sovereign wealth funds' to respond to future oil price fluctuations.[17]

That being said, there also needs to be a high level of autonomy and independence of NOC from government. Separate and prohibit state interference in the operations of NOCs, thus allowing the NOC more authority to engage in resource projects and provide an environment in which they can act independently and commercially. Separating the NOC from internal politics and political party influence can go a very long way in the efficient management of the states' petroleum resources. Until the NOC is free from interim government manipulations the objectives of the NOC from a resource-rich developing country will never be reached. Although it can be argued that a NOC cannot be entirely free from government interference, the degree is what matters. Accordingly, Brogan acknowledged that in order for the NOC to maintain their critical role within their petroleum industry and the global petroleum sector, the NOC must change their relationship with the government.[18] Although this can be awkward to achieve as has been evidenced since the petroleum boom in Nigeria, petroleum has been the prize of controlling the government, also evidenced in Angola as it provided the means to safeguard and extend control.[19]

Another critical point to make is for a developing country like Nigeria to take into account that the present petroleum market is different from what it used to be a couple of years ago, and therefore adapt petroleum policy options that will assist the state in gaining economic development through these resources.[20] That been said, this study suggests the evolution of the NOCs as well as the government petroleum policies, because the global petroleum industry is an ever-evolving one,

[17] See Misheelt Ganbold and Saleem H. Ali, 'The Peril And Promise Of Resource Nationalism: A Case Analysis Of Mongolia's Mining Development' (2017) 53 Resources Policy 1.
[18] Andy Brogan, 'Why National Oil Companies Need To Transform' (*EY*, 2019) <https://www.ey.com/en_gl/oil-gas/why-national-oil-companies-need-to-transform> accessed 3 June 2020.
[19] See Inge Amundsen, 'Drowning In Oil: Angola's Institutions And The "Resource Curse"' (2014) 46 Comparative Politics 169.
[20] See Paul Stevens, 'Role of Oil and Gas in Global Economic Development' in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 88.

as shown in chapter 2. The global petroleum industry is an ever-changing one, as evidenced by her history. For instance, Gong commented that the shale revolution, which took place over the past two decades, has reshaped the global petroleum industry.[21]

These NOCs that have enhanced their efficiency in their domestic petroleum sectors and also in the international petroleum industry have been termed Global NOCs (GNOC), International NOCs (INOC), NOC Tigers, and Super NOCs by Bagheri and Di Minin.[22] Equally, what enabled these NOCs to expand their petroleum resource base beyond their national borders was a result of amassed experience and competitiveness over time.[23] Thus, the proposal by this study relies on the evidence of some NOCs that have achieved the above, especially Equinor to demonstrate that a NOC with the right petroleum laws, policies, regulations and political-will, these goals can be reached. To put it differently, Bagheri and Di Minin suggested that these GNOCs will take control of the global petroleum industry if these GNOCs vertically integrate and coordinate their output commitments.[24] Under those circumstances, they will influence the global petroleum industry and other players in it, like IOCs and other NOCs, therefore relegating them to secondary players.[25] Needless to say that for the other industry stakeholders such change in the competitive scenery will have an extensive outcome.[26] See Appendix 6 for a view of how the power pillars of the global petroleum industry favour NOCs or GNOCs.

Accordingly, a state's petroleum policies and NOCs have to evolve with the industry. The proposed stages of evolution of a NOC by this study are Full

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[21] Binlei Gong, 'Effects Of Ownership And Business Portfolio On Production In The Oil And Gas Industry' (2020) 41 The Energy Journal 33.
[22] Seyed Kamran Bagheri and Alberto Di Minin n 22. See also, 'The Oil And Gas Industry In Energy Transition' (*IEA - World Energy Outlook Special Report*, 2020) <https://www.iea.org/reports/the-oil-and-gas-industry-in-energy-transitions> accessed 5 March 2020.
[23] Ibid.
[24] Ibid. See also, Anton Oussov n 14.
[25] Ibid. See also, Ben Thuriaux-Aleman, Sam Salisbury and Paolo R. Dutto, 'R&D Investment Trends And The Rise Of NOCs' (2010) 62 Journal of Petroleum Technology 30.
[26] Ibid. See also, Flavia Pereira de Carvalho and Andrea Goldstein, 'The Making Of National Giants: Technology And Governments Shaping The International Expansion Of Oil Companies From Brazil And China' [2008] UNU-MERIT Working Papers 021.

ownership to Part-ownership and then Private ownership.[27] For example, Norway, Brazil, the United Kingdom and the planned part-privatisation of Saudi Aramco.

Embarking on this study's proposed evolution of NOC, certain factors must be identified. For instance, the petroleum framework should reflect different stages, times, periods, targets for the evolution of the NOC. Thus a guideline should be stipulated on the structural change of the NOC. Further, none of these will independently fix the petroleum sector, economy or poverty level. However, the desire is that these reforms would go some way to achieving the creation of value for many Nigerians.

7.4 NOC Reforms

Some of the proposed reforms in the Nigerian PIGB could assist the state in benefitting from the exploration and production of their petroleum resources. These reforms have lingered for ages, with arguments that the Nigerian President is not willing to make these changes as earlier promised.[28] By this study's arguments, it is gleaned that countries usually need to see their NOC play a very vital role in the states' upstream sector, as the goal when analysing Equinor, is to one day have the NOCs present in other countries, which will lead to these NOCs competing with IOCs, domestically and globally.[29] Therefore, as claimed by the thesis, the role of the NOC must bring value to the country as a whole, and not to a select group of the country's elite. To further stress the importance of a NOC, NNPC remains at the centre of the ongoing petroleum sector reforms in the country.[30]

According to this study, the commercial and non-commercial objectives of the NOC should be well defined, and as well other mandates of the NOC, supported

[27] Here privately owned NOCs are seen as public entities as they are publicly listed in the Stock Exchange Market.
[28] See Nick Branson and Ed Hobey-Hamsher, 'The Diverging Fortunes Of Africa's Crude Kings' (*Petroleum-economist.com*, 2019) <https://www.petroleum-economist.com/articles/politics-economics/africa/2019/the-diverging-fortunes-of-africa-s-crude-kings> accessed 30 December 2019.
[29] See Valérie Marcel, 'The Cost Of An Emerging National Oil Company' [2016] Chatham House - The Royal Institute of International Affairs.
[30] See Appendix 7.

by precept 6, of the Natural Resource Charter.[31] It is always crucial for the development of the petroleum resources that the government should have a clear vision, because in so doing the role of the NOC and other institutions in the petroleum sector will be well defined.[32] Accordingly, the study proposes critical stages of the evolution of a NOC, and in all these stages the NOC must be active in the upstream petroleum sector, meaning that the NOC must be involved in the exploration and production phase; therefore the NOC must be an operator:

1. Fully Government-Owned and Controlled Operator - NOC
2. Part Government-owned and controlled Operator - NOC, i.e. partly public owned by share listing in the stock markets.

These should be covered in the Short and Long-term measures of petroleum sector restructuring. (Short term policies et al.) It is noteworthy to realise that the proposed stages of evolution of NOC come from the observation and analysis of the trajectory Equinor has taken over the years. For example, today, Equinor has set out plans to invest in renewable energy and has targets set.[33] This proposed evolution of a NOC today could be another way for NOCs to attract FDI into their petroleum sector, and growing the NOC. For example, Saudi Aramco's planned IPO and recently the plan of Angola to part-privatise the NOC Sonangol by 2022 as a significant means for the country to attract investment to their petroleum sector.[34] This says much about where the future of NOCs will lie.

Therefore, the need to expand and diversify its portfolio is becoming vital by the day. The NOC should have the capacity to diversify, as this is important in

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[31] Precept 6: State-owned enterprises. See David Manley and Rob Pitman n 3.

[32] Valérie Marcel, 'Guidelines For Good Governance In Emerging Oil And Gas Producers 2016' [2016] Chatham House <https://www.chathamhouse.org/sites/default/files/publications/research/2016-07-13-guidelines-good-governance-2016-marcel.pdf> accessed 24 January 2020.

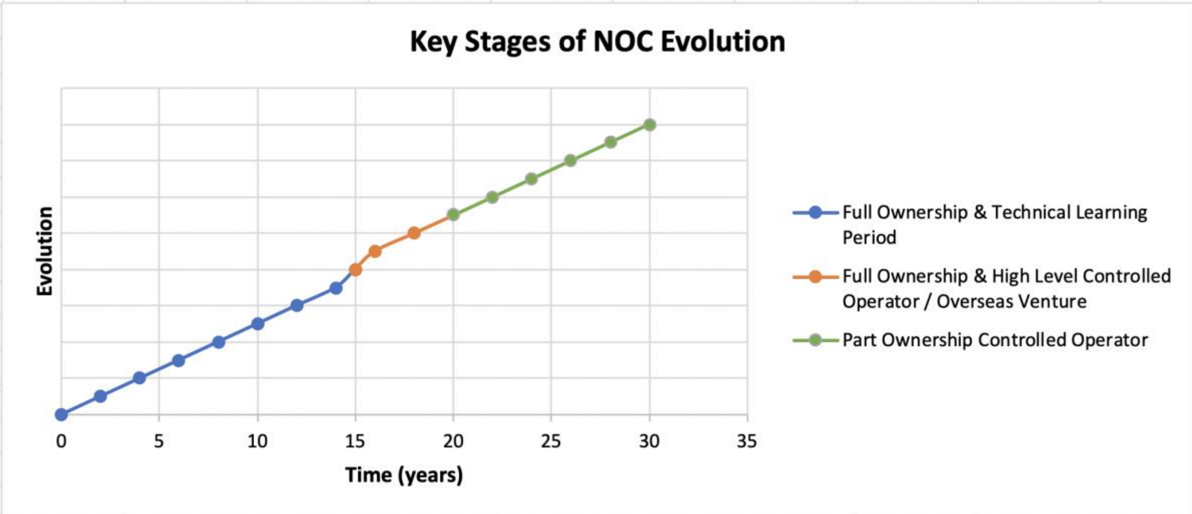
[33] See Peter Ramsay, 'Equinor Sets Out Its Renewables Vision' (*Petroleum-economist.com*, 2020) <https://www.petroleum-economist.com/articles/low-carbon-energy/energy-transition/2020/equinor-sets-out-its-renewables-vision> accessed 8 February 2020.

[34] See 'Angola Set To Attract More FDI Into Oil And Gas; Part-Privatization of Sonangol By 2022 A Key Measure' (*Africa Oil & Power*, 2020) <https://www.africaoilandpower.com/2020/02/04/angola-set-to-attract-more-fdi-into-oil-and-gas-part-privatization-of-sonangol-by-2022-a-key-measure/> accessed 19 February 2020; Candido Mendes, 'Angola's Sonangol Plans Share Sale For 30% Of Business In Broad Shakeup' (*Bloomberg*, 2020) <https://www.bloomberg.com/amp/news/articles/2020-02-27/angola-s-sonangol-plans-share-sale-for-30-of-business-by-2027?__twitter_impression=true> accessed 27 February 2020; See also, Ariel Cohen, 'Saudi Aramco IPO Hits $2 Trillion Mark Amid Guarded Forecast' (*Forbes.com*, 2019) <https://www.forbes.com/sites/arielcohen/2019/12/18/saudi-aramco-ipo-hits-2-trillion-mark-but-forecast-still-guarded/> accessed 19 February 2020.

achieving sustainable economic development through petroleum resources. Therefore, for sustainable diversification to be achieved there should be no illusions of what is expected from the petroleum reserves, that is knowing what level of economic contribution are expected from the petroleum reserves.[35] It is also crucial that the NOC and government channel the petroleum revenues into investment that promotes self-sustained growth in other sectors of the economy.[36] Looking ahead with the absence of astronomical petroleum rent in mind, developing countries should view the diversification of the economy and strengthening of governance as a way to prepare themselves for a post-petroleum future.[37]

Accordingly, the evolution, as mentioned earlier, the following graph shows the proposed stages and period of evolution:

Figure 11 : Suggested Path of NOC Evolution



Source: author’s own based on thesis data and analysis.

This tentative 30 years NOC progressive evolution proposal is based on the analysis of Norway's petroleum industry and her NOC-Equinor. Firstly, this 30 year plan can be adjusted accordingly. These stages can be achieved in an earlier

[35] See Glada Lahn and Paul Stevens, ‘ The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development’ in Tony Addison and Alan Roe (eds) (n 19) 110.
[36] Ibid.
[37] See James Cust, ‘The Role of Governance and International Norms in Managing Natural Resources’ in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 418.

timeframe or a later one, it all depends on the momentum given to the transition from one stage to the other by the government. The evolutionary year's target can be adjusted with the global petroleum industry trends and market movements. This suggestion realises that no two countries are the same.

Secondly, this NOC evolution proposal supports the control arguments of this study, as the NOC at some point, would have to take control of the upstream, production of the petroleum resources. The argument is that the NOC carries out at least the majority of the upstream production as it could be impossible to carry out all the upstream activities. For example, see Norwegian Petroleum sector activity in Figure 7, which shows Equinor with the highest number of licences in the NCS.

Thirdly, as indicated in chapter 6, it took Norway 18 years to carry out her first overseas venture, and 29 years for the privatisation (listing) process to commence. It allowed the state ample time to gain knowledge and experience in the global petroleum industry. Somehow different, Nigeria's NOC with no international exposure, has been around for over 45 years, and her production arm, which is NPDC has been around for over 30 years, yet this producing arm of the state NOC cannot boast of production of 300 tb/d (thousand barrel per day). Therefore, the proposed evolution trajectory calls for a highly technically sound NOC that can carry out a more significant upstream production, and also be able to engage with the global petroleum industry competently.

According to the suggested path of evolution (figure 11), the first period would be the technical learning period for the NOC, while the government maintains full ownership and control of the NOC. The second period, sees the NOC evolve into a full competent commercial entity, that can carry out upstream operations within the state and also abroad. In this period the government still wholly owns and controls the NOC. Finally, the last period sees the NOC partly government-owned listed in any suitable stock market. In line with this thesis's claims, the government retains the controlling shares as evidenced with Equinor of Norway.

Finally, this listed commercially competent NOC can then evolve with the global petroleum industry, as it would be regarded as a genuine GNOC. Therefore, it can be advanced that this GNOC can be in a better position to engage with the global energy industry when the energy transition period kicks in, and more easily attract global investment than a non-global NOC.

By focusing on NOC, this proposed evolution did not account for many other factors and variables that can impact this transition, of a NOC to a GNOC, as there are other petroleum resource-related determinants of economic development. This proposal was put forward following the analysis of Equinor and NNPC on the back of the ownership and control claims of the study.

7.5 Key Challenges in the Petroleum Sector

Usually, in a developing country, challenges to change in a sector, especially petroleum sector can range from; political instability, transparency, corruption, enforcement and elite or class influence. Here, some of these challenges are grouped into general petroleum sector challenges and NOC specific challenges.

7.5.1 General Petroleum Sector Challenges

As with any country, particularly a developing one, political stability is a fundamental necessity for positive outcomes from the country’s petroleum resources.[38] To ensure this stability, several factors impact the petroleum industry in a country. For example, the political system, political parties, number of political parties, political parties in power, political parties in the opposition, the maturity of the political parties in the country, and the political awareness of the people of the state.[39] It is known that one or more of the above lead to political instability in Nigeria and therefore affect the primary industry of the country, which is the petroleum industry.

Transparency in the petroleum industry has been a factor that has an overarching result on the industry in terms that so many issues are believed to be the existing

[38] Ari Aisen and Francisco José Veiga, 'How Does Political Instability Affect Economic Growth?' (2013) 29 European Journal of Political Economy 151.
[39] Mary N. Mbuguah, Mary Kibuine and Juluis Kahuthia, 'Effect Of Political Violence Disruptions On Performance Of The Petroleum Industry During Electioneering Period' (2019) 3 International Academic Journal of Human Resources and Business Administration 320.

problems of the petroleum industry. Boldbaatar et al. believe that the widespread corruption in transactions, contracts and compliances in the petroleum industry can be changed with transparency, or by shining a light on these, thus leading to government accountability.[40] Disclosure of all dealings that go on in the industry is assumed to be the target of implementing transparency measures. Therefore, achieving transparency becomes a challenge to a petroleum-rich state, as previously argued in earlier chapters, the petroleum industry has always been shrouded in secrecy and secret dealings, and as a result, hidden from scrutiny.[41]

Collier further asserted that for a state to achieve the goal of effective management of their petroleum resources, the government has to be informed and also, such informed citizens as these are vital.[42] As a result, some disclosure frameworks have been developed, for instance, EITI, to which Nigeria is a signatory,[43] but for a recent disclosure framework developed to improve resource governance by Boldbaatar et al. for Mongolia see appendix 7, bearing in mind that it is a sample of how this disclosure process works and the stages involved. The possibility of this framework being achievable in Nigeria is one that has to be assessed. Although the country is signed up to EITI, cases of undisclosed payments still abound.[44] Promising more than it can deliver is a criticism levelled against EITI.[45] This also can be predicated on the metrics of analysis of the impact of EITI in a particular state.

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[40] D. Boldbaatar, N.C. Kunz and E. Werker, 'Improved Resource Governance Through Transparency: Evidence From Mongolia' [2019] The Extractive Industries and Society. See also, 'Borrowers And Lenders Must Come Clean On Terms Of Controversial, High-Value Resource-Backed Loans' (*Natural Resource Governance Institute*, 2020) <https://resourcegovernance.org/news/controversial-high-value-resource-backed-loans> accessed 27 February 2020 and 'USA: Publish What You Pay Calls On Extractive Companies To Comment On Latest SEC Payment Disclosure Rules; Including Company Responses | Business & Human Rights Resource Centre' (*Business & Human Rights Resource Centre*, 2020) <https://www.business-humanrights.org/en/usa-publish-what-you-pay-calls-on-extractive-companies-to-comment-on-latest-sec-payment-disclosure-rules-including-company-responses> accessed 12 March 2020.

[41] For Instance, See 'African Leaders Must Come Clean On Terms Of Controversial, High-Value Resource-Backed Loans' (*Natural Resource Governance Institute*, 2020) <https://resourcegovernance.org/news/africa-high-value-resource-backed-loans> accessed 29 February 2020.

[42] Paul Collier, 'Under Pressure' (2013) 50 Finance and Development <https://www.imf.org/external/pubs/ft/fandd/2013/12/pdf/collier.pdf> accessed 29 February 2020.

[43] See Nigeria Extractive Industries Transparency Initiative 'NEITI' (2020) <https://www.neiti.gov.ng/index.php> accessed 27 February 2020.

[44] See Paul Adeyeye, 'President Buhari Fails To Disclose ₦11.4 Trillion Oil Remittances' (*Dataphyte*, 2020) <https://www.story.dataphyte.com/extractive/president-buhari-fails-to-disclose-₦11-4-trillion-oil-remittances/> accessed 27 February 2020.

[45] See Glada Lahn and Paul Stevens, ‘ The Curse of the One-Size-Fits all Fix: Re-evaluating what we Know about Extractives and Economic Development’ in Tony Addison and Alan Roe (eds) (n 19) 101.

Corruption and bribery in the global petroleum industry has made the news so many times for corruption and bribery and these practices are witnessed at both international and national levels. As earlier highlighted, these corrupt actors make sure these deals are hidden, which makes the call for disclosure and transparency in the global and state petroleum industries significant.[46]

Enforcement and implementation is another challenge that a petroleum-rich state will face in achieving value creation through their petroleum resources, when new and progressive petroleum legal frameworks are proposed, and the state accepts these changes. Passing them into laws, or adopting these policies in the petroleum sector, does not automatically mean that these policies will be adhered to. Enforcement and implementation becomes key. Accordingly, in a democratic state, this depends on the effectiveness of the arms of government and the government institutions as legislation means nothing without proper enforcement. It has been argued in this study that the strengthening of an institution can assist the state in achieving economic development through its petroleum resources. Therefore in a more reliable institution, it can be said there will be institutional constraints present, that would further make it difficult for the revenues from petroleum to be diverted for personal use, or into the pockets of the ruling group or elites of the state, thereby diminishing the influence of the elites of the country in the management of the petroleum resources.[47]

7.5.2 NOC Specific Challenge

Overall this research acknowledges the government influence on their NOCs, and this influence can be a blessing or a curse for the NOC. Regardless, support from the government is required, while the NOC maintains its independence in carrying

[46] See Aaron Sayne and Melanie D. Reed, 'In Foreign Corruption Cases, Transparency Creates Accountability (*The FCPA Blog*, 2020) <https://fcpablog.com/2020/02/26/in-foreign-corruption-cases-transparency-creates-accountability/> accessed 27 February 2020. See also, Melanie D. Reed and Aaron Sayne, 'Holding To Account: How Publishing Facts About Foreign Corruption Creates Accountability' (*Natural Resource Governance Institute*, 2020) <https://resourcegovernance.org/sites/default/files/documents/holding-to-account-how-publishing-facts-about-foreign-corruption-creates-accountability.pdf> accessed 27 February 2020.

[47] See Evelyn Dietsche, 'Political Economy and Governance' in Tony Addison and Alan Roe (eds), *Extractive Industries: The Management Of Resources As A Driver Of Sustainable Development* (Oxford University Press 2018) 125 - 132.

out its objectives. Notwithstanding the recommendations, the inquiry that remains is whether the NOC can be given their independence to operate without government interference, party politics and ruling group. This situation is usually obtainable in a country where the petroleum resources and sector are the mainstay of the economy. Therefore, the control of this resource and sector becomes of uppermost importance to some of the aforementioned groups. Therefore, NOC global expansion can be somewhat predicated on the state's political willingness to ensure that the goals of the NOCs are reached, as has been observed national political party competition restrains democratic tolerance for NOCs lack of success.[48]

Given that a truly independent NOC would bring efficiency, productivity and many more positive outcomes for the petroleum sector of the state, and by extension creation of value through effective management of the petroleum resources as earlier stated in this study for the people of the country. Achieving a truly independent NOC could be argued to be a myth, but as long as the government continues to own shares in the corporation but on the other hand achieves some level of independence it has been seen to be obtainable.

Most petroleum-rich developing countries have their own NOC, also corruption can be a huge challenge in the petroleum sector, and NOCs are often infamous for waste and corruption.[49] It is usually commercial, through influence on procurement, also playing a role in administrative corruption, is the weak capacity of the other government institutions.[50] These can be a challenge in implementing a progressive reform in the petroleum sector of the state and NOC.

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[48] See Andrew Cheon, 'Developing Global Champions: Why National Oil Companies Expand Abroad' (2019) 31 Economics & Politics 403.
[49] See Charles McPherson and Stephen MacSearraigh, 'Corruption in the Petroleum Sector' in J. Edgardo Campos and Sanjay Pradhan (eds), *The Many Faces Of Corruption: Tracking Vulnerabilities At The Sector Level* (The World Bank 2007) 200 - 205.
[50] Ibid.

7.6 Limitations and Areas of Future Research

In the cause of carrying out this research, certain limitations and areas for future research arose.

7.6.1 Study Limitations

There is a need for a new research agenda for Nigeria, especially in view of the recent changes in the international oil and gas industry, and the evaluation of the petroleum resource curse. The complexity of different factors that determine corruption, petroleum violence, bribery, authoritarianism calls for a multi-disciplinary investigation. Further, the financial implications for when a NOC is fully involved in the upstream operation – Exploration and Production (E&P), have to be considered.

The study did not look at other unique factors that can affect the economic production or value creation through petroleum resources as many factors affect the value creation through the management of petroleum resources. For example, land, labour, and capital markets also, as the thesis is concerned with NOC as a state institution for successful value creation through the effective management of petroleum resources, for complete support by the ownership and control of these petroleum resources.

The Norwegian model is usually cited as a set of vital reforms that a country's NOC can adopt to improve performance, efficiency and transparency.[51] There is no scientific basis for this assertion and some claim that it is hard to operationalise NOC independence and hard to apply the Norwegian model in a developing country. The role of an independent NOC has been the focus of most pieces of literature, although the lessons from some of these studies are unclear. Some of

[51] See Barbara Doric and Vlado Dimovski, 'Managing Petroleum Sector Performance – A Sustainable Administrative Design' (2018) 31 Economic Research-Ekonomska Istraživanja 119. See also, Jonathon Wayne Moses and Bjørn Letnes, *Managing Resource Abundance And Wealth: The Norwegian Experience* (Oxford University Press 2017).

these studies show the role the Norwegian model can play in enhancing a NOC performance.[52]

In assessing whether the Norwegian model is or is not a good idea, Thurber et al. stressed that "reformers in the petroleum sector of a state require context-specific guidance" to make this judgement.[53] Therefore, it is difficult to come up with a political and economic indicator, that examines how the decision-making body in an institution or NOC (policymaking, regulatory and operational) are elected or appointed, and also how the NOC gets funding as many other NOC/institutional elements differ across contexts. For example, some countries have sundry NOCs like China, and some countries open their petroleum sector up to global and domestic competition like Norway and Brazil; privatising the NOC (Norway and Argentina). There is still much work to be done in developing remarkable cross-national indicators and tests.[54]

7.6.2 Areas of Future Research

The study deliberately did not consider the effects that global petroleum market factors would have on the performance of a NOC, against the proposed changes promulgated in this study. Future studies can take the domestic and international petroleum market factors into consideration, as the productivity of a NOC could be constrained by these variables in the future, especially after specific policy changes or fiscal reforms have been made in a petroleum-rich developing state.

It is suggested that future studies could consider the impacts of investment on upstream activities, amidst the increase in climate and renewable energy campaigns.[55] Some arguments have been put forward on the possible impact of

[52] For example, See Valérie Marcel, 'National Oil Companies Of The Future' (2019) 95 Annales des Mines-Responsabilité et Environnement <https://www.cairn.info/revue-responsabilite-et-environnement-2019-3-page-133.htm.> accessed 27 August 2019.
[53] See Mark C. Thurber, David R. Hults and Patrick R.P. Heller, 'Exporting The "Norwegian Model": The Effect of Administrative Design On Oil Sector Performance' (2011) 39 Energy Policy 5367.
[54] See Jonathon Wayne Moses and Bjørn Letnes, *Managing Resource Abundance And Wealth: The Norwegian Experience* (Oxford University Press 2017)
[55] See Anna Kachkova, 'Major Trend Emerges For Net-Zero Targets' (*Petroleum Economist*, 2020) <https://www.petroleum-economist.com/articles/low-carbon-energy/energy-transition/2020/major-trend-emerges-for-net-zero-targets> accessed 28 February 2020, and 'Reporting For A Secure Climate: A Model

climate change on petroleum resource production.[56] Especially for petroleum-rich developing countries in Africa, there arises a need to plan, so that they will not end up having resources that are worthless, hence stranded assets.[57] Today, some NOCs and IOCs have set renewable energy targets and also, embarked on some climate or green initiatives.[58] For example, Equinor, Shell, Total, Repsol, Eni and BP have all made public commitments to meet the net-zero carbon emissions target for 2050.[59]

What will this mean for the future of the upstream petroleum industry, especially in a petroleum-rich developing state? How will the investment landscape look, and what will it mean for some NOCs? Future studies must concern NOCs transitioning to a renewable energy company or having an arm of the company involved in renewable energy, to mitigate for the energy transition that is on the horizon, so as not to be caught unawares or left behind.[60] As much as the state might have an abundance of petroleum resources, the need to attract investment into the state's energy sector is vital to the growth of that sector.

As discussed corruption issues that plague state institutions and NOCs should be an area of further research, as corruption is a complex concept, and also the

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Disclosure For Upstream Oil And Gas - Carbon Tracker Initiative' (*Carbon Tracker Initiative*, 2020) <https://www.carbontracker.org/reports/reporting-for-a-secure-climate-a-model-disclosure-for-upstream-oil-and-gas/> accessed 24 February 2020.
See also, 'The Carbon Bubble Reality Check' (*Shell Climate Change*, 2020) <https://blogs.shell.com/2013/05/03/bubble/> accessed 24 February 2020.

[56] See Bernice Lee and others, 'Resources Futures' (2012) 1 Chatham House.

[57] See 'Africa's Development In Age Of Stranded Assets' (*UNU-INRA*, 2019) <https://i.unu.edu/media/inra.unu.edu/publication/5247/DIscussion-paper-Africas-Development-in-the-age-of-stranded-Assets_INRAReport2019.pdf> accessed 27 February 2020.

[58] See Harry Dempsey and Anjli Raval, 'Equinor To Slash Emissions In 'Major' Wind Push' (*Financial Times*, 2020) <https://www.ft.com/content/65329980-48ba-11ea-aeb3-955839e06441> accessed 24 February 2020; Andrew Lee, 'Equinor Sets 2035 Renewables Target To Become 'Offshore Wind Major' | Recharge' (*Recharge | Latest renewable energy news*, 2020) <https://www.rechargenews.com/wind/equinor-sets-2035-renewables-target-to-become-offshore-wind-major/2-1-751375> accessed 24 February 2020; Jillian Ambrose, 'BP Sets Net Zero Carbon Target For 2050' (*the Guardian*, 2020) <https://www.theguardian.com/business/2020/feb/12/bp-sets-net-zero-carbon-target-for-2050> accessed 24 February 2020, and Julia Horowitz, 'BP's New CEO Pledges Net Zero Emissions By 2050' (*CNN Business*, 2020) <https://edition.cnn.com/2020/02/12/business/bp-net-zero/index.html> accessed 24 February 2020.

[59] Nick Butler, 'Look Beyond European Oil Majors' Steps To Net Zero' (*Financial Times*, 2020) <https://www.ft.com/content/7571fadc-5889-11ea-abe5-8e03987b7b20> accessed 5 March 2020.

[60] See Alastair O'Dell, 'Investors And NGOs Take Tougher Line On Climate Change' (*Petroleum Economist*, 2020) <https://www.petroleum-economist.com/articles/low-carbon-energy/energy-transition/2020/investors-and-ngos-take-tougher-line-on-climate-change> accessed 28 February 2020. See also, 'The Oil And Gas Industry In Energy Transition' (*IEA - World Energy Outlook Special Report*, 2020) <https://www.iea.org/reports/the-oil-and-gas-industry-in-energy-transitions> accessed 5 March 2020.

schemes are opaque as well as complex, and evidence of corruption has been proven to exist in petroleum resource-rich states.[61]
It is important to highlight the study's caveats and plea. It is somewhat agreed upon the negative impact of petroleum activities – pollution; environmental; fishery – employment and livelihood—also, corporate Social Responsibility: political and ethical problems—furthermore, in-depth analysis of the financial instruments used by these NOCs. There was no critical analysis of the fiscal regimes used by these governments in the state participation in their petroleum industry.

7.7 Concluding Remarks

The significance of this study is to buttress the claims for establishing and maintaining a NOC, especially in a petroleum-rich developing state. In chapter 2 NOCs were introduced as champions of a petroleum-rich state, as suggested by the history of the global petroleum industry, when both petroleum exporting and importing countries started establishing these government entities to hold the torch for the development of their petroleum resources. In chapter 2, this thesis claimed the continued importance of petroleum resources in the global energy mix, as predicted by the trajectory of the global petroleum industry. In addition, the reasons why a state should maintain a NOC were expounded in chapter 3.

Further, in the chapter, the study evidenced some rationale why some states have established their NOCs, with a closer historical view of Nigeria and Norway. Finally, in chapter 3, the grand claim was that NOC is still a relevant player in the global petroleum industry, if not the most relevant at the moment, and would continue to play a vital role in the global petroleum industry, for the foreseeable future of the industry.

[61] See Aaron Sayne, Alexandra Gillies and Andrew Watkins, 'Twelve Red Flags: Corruption Risks In The Award Of Extractive Sector Licences And Contracts' (*Resourcegovernance.org*, 2017) <https://resourcegovernance.org/sites/default/files/documents/corruption-risks-in-the-award-of-extractive-sector-licenses-and-contracts.pdf> accessed 25 February 2020. See also, Alexandra Gillies, *Crude Intentions: How Oil Corruption Contaminates The World* (Oxford University Press 2020).

Furthermore, chapter 4 connected the establishment of NOCs to resource nationalism and claimed that resource nationalism could lead to a positive outcome for the petroleum-rich state, especially a developing state. The chapter expanded on the core concepts of resource nationalism, which are ownership and control. There are further claims that ownership and control outcomes are different, as these concepts usually lead to different outcomes in the petroleum sector where it is expressed. In chapter 4, the role a NOC has to play in effectively asserting the state's ownership and control over their petroleum resources. This then led the research to critically analyse the natural resource curse, and rentier state theories, while further expanding on the vital role an NOC plays in assisting the state in escaping the petroleum resource curse. Finally, all these concepts were brought together in the comparative analysis of both Norway and Nigeria's upstream petroleum sector and their NOCs. This critical analysis thus leads to recommendations, NOC reforms and regulatory reforms in chapter 6 and mainly in this chapter.

The central thesis that emerges from the work is that although the global petroleum industry relies on IOCs for progress and delivery of petroleum as a source of energy, this does not diminish the importance of NOCs. However, it seems that the industry is moving towards a free-market model, where the IOCs or private oil companies control the industry. Further, some of the theories that have been expounded in this study have assisted in proving the importance of NOC in the global petroleum industry. It is believed that today the NOCs can be as effective as the IOCs, albeit with the right petroleum regulations and guidance from the government. Fundamentally, the main goal of a NOC continues to be the creation of value for the people of the state through the effective management of their petroleum resources. The best path would be for the strategic involvement of these NOCs in the upstream petroleum sector of their various states. As a result, the concepts of ownership and control can be exhibited without harming the state, for there to be full control of these petroleum resources the NOC of the state must be involved in the production phase of the upstream industry. Another point to bear in mind for a petroleum-rich developing state is the global energy transition, as consideration has to be given to this in the strategic planning and objectives of the NOC.

Furthermore, this study has expressed the vital role a NOC plays in their domestic petroleum sector, likewise in the global petroleum sector for those NOCs that have expanded their activities abroad. This NOC expansion, outside their domestic petroleum sector into the global petroleum sector, is what this study pointed out as being one of critical evolution for a NOC. Equinor of Norway's progress in the global petroleum industry was used in the critical analysis of a NOC from a developed country, in contrast to NNPC of Nigeria's progress. Critically mirroring Norway's petroleum industry against Nigeria's, assisted the study to highlight some of the problems in the Nigerian petroleum sector, and by extension, some of the weak performance of their upstream petroleum resource sector.

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APPENDICES

APPENDIX 1 - NATIONAL OIL COMPANIES IN THE GLOBAL PETROLEUM INDUSTRY

NOC	NOC Full Name	Home Country	Production Peer Group
ADNOC	Abu Dhabi National Oil Company	United Arab Emirates	Large domestic producers
BAPCO	Bahrain Petroleum Company	Bahrain	Medium domestic producers
Basra Oil Company	Basra Oil Company	Iraq	Large domestic producers
CNOOC	China National Offshore Oil Corporation	China	Internationalized operators
CNOOC Limited	China National Offshore Oil Corporation Limited	China	Internationalized operators
CNPC	China National Petroleum Corporation	China	Internationalized operators
CUPET	Cuba Petróleo Union	Cuba	Small domestic producers
Ecopetrol	Ecopetrol	Colombia	Large domestic producers
EGPC	Egyptian General Petroleum Corporation	Egypt	Small domestic producers
ENH (company reporting)	Empresa Nacional de Hidrocarbonetos	Mozambique	Small domestic producers
ENH (EITI)	Empresa Nacional de Hidrocarbonetos	Mozambique	Small domestic producers
ENOC	Emirates National Oil Company	United Arab Emirates	Internationalized operators
Equinor	Equinor	Norway	Internationalized operators
ETAP	Entreprise Tunisienne d'Activités Pétrolières	Tunisia	Small domestic producers
Gabon Oil Company	Gabon Oil Company	Gabon	Small domestic producers
Gazprom	Gazprom	Russia	Internationalized operators
GEPetrol	GEPetrol	Equatorial Guinea	Small domestic producers
GNPC (company reporting)	Ghana National Petroleum Corporation	Ghana	Small domestic producers

NOC	NOC Full Name	Home Country	Production Peer Group
GNPC (PIAC)	Ghana National Petroleum Corporation	Ghana	Small domestic producers
IPIC	International Petroleum Investment Company	United Arab Emirates	Internationalized operators
KazMunayGas	KazMunayGas	Kazakhstan	Large domestic producers
KPC	Kuwait Petroleum Corporation	Kuwait	Large domestic producers
MOGE	Myanma Oil and Gas Enterprise	Myanmar	Small domestic producers
Naftogaz	Naftogaz	Ukraine	Medium domestic producers
NAMCOR	National Petroleum Corporation of Namibia	Namibia	Pre-production NOCs
National Oil Kenya	National Oil Corporation of Kenya	Kenya	Pre-production NOCs
Nilepet	Nile Petroleum Corporation	South Sudan	Small domestic producers
NIOC	National Iranian Oil Company	Iran	Large domestic producers
NNPC	Nigerian National Petroleum Corporation	Nigeria	Large domestic producers
NOC Libya	National Oil Corporation of Libya	Libya	Large domestic producers
NOCAL (company reporting)	National Oil Company of Liberia	Liberia	Pre-production NOCs
NOCAL (EITI)	National Oil Company of Liberia	Liberia	Pre-production NOCs
ONGC	Oil and Natural Gas Corporation	India	Internationalized operators
OOC	Oman Oil Company	Oman	Small domestic producers
Orsted	Orsted	Denmark	Internationalized operators
PCJ	Petroleum Corporation of Jamaica	Jamaica	Pre-production NOCs

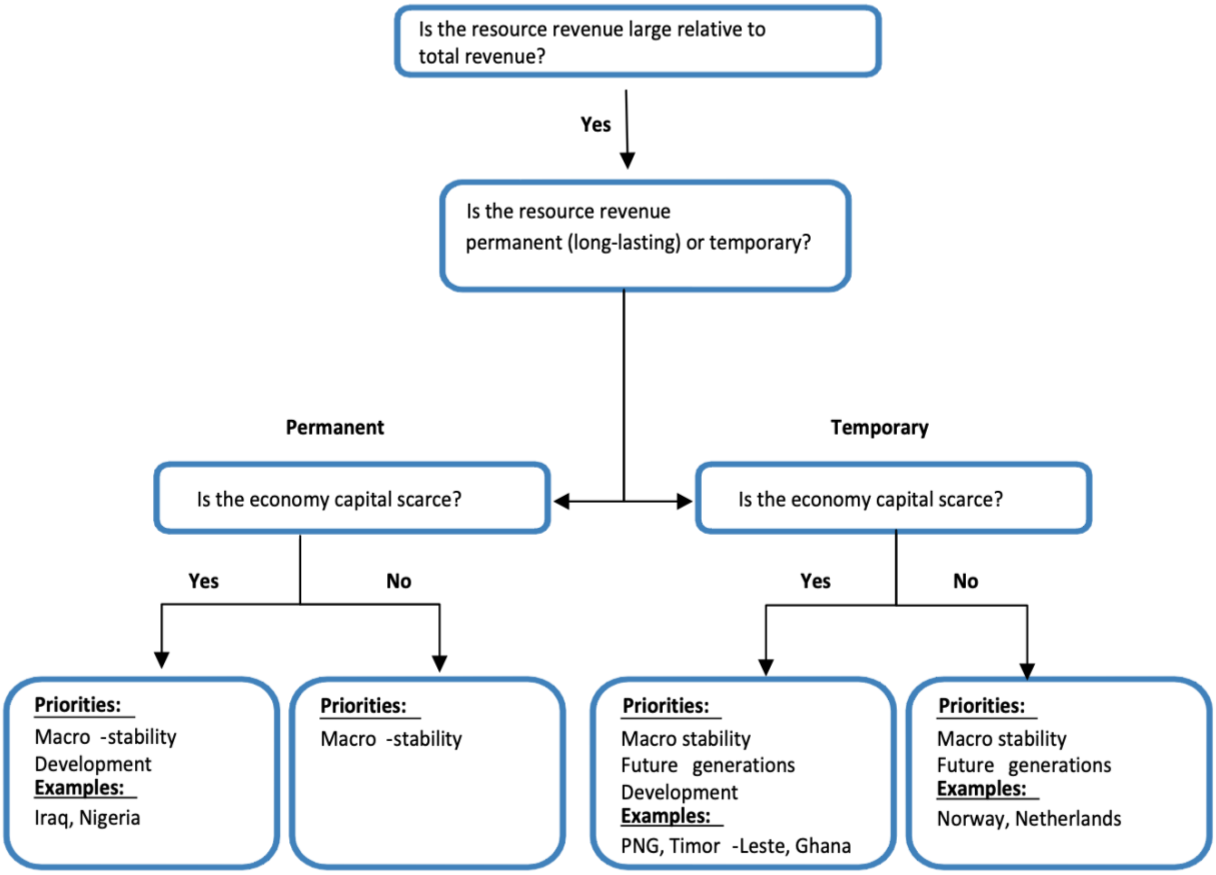
NOC	NOC Full Name	Home Country	Production Peer Group
PDVSA	Petróleos de Venezuela, S.A.	Venezuela	Large domestic producers
Pemex	Petróleos Mexicanos	Mexico	Large domestic producers
Pertamina	PT Pertamina (Persero)	Indonesia	Large domestic producers
Perupetro	Perupetro	Peru	Small domestic producers
Petroamazonas	Petroamazonas	Ecuador	Medium domestic producers
Petrobangla	Petrobangla	Bangladesh	Medium domestic producers
Petrobras	Petróleo Brasileiro	Brazil	Internationalized operators
PetroChina	PetroChina	China	Internationalized operators
Petroci (company reporting)	Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire	Côte d'Ivoire	Small domestic producers
Petroci (EITI)	Société Nationale d'Opérations Pétrolières de la Côte d'Ivoire	Côte d'Ivoire	Small domestic producers
Petroecuador	Petroecuador	Ecuador	Medium domestic producers
PetroleumBrunei	PetroleumBrunei	Brunei	Medium domestic producers
Petronas	Petroliam Nasional Berhad	Malaysia	Internationalized operators
PetroSA	PetroSA	South Africa	Small domestic producers
Petrotrin	Petroleum Company of Trinidad and Tobago	Trinidad and Tobago	Small domestic producers
PetroVietnam	PetroVietnam	Vietnam	Medium domestic producers
PNOC	Philippine National Oil Company	Philippines	Small domestic producers
PTT	PTT Public Company Limited	Thailand	Internationalized operators
Qatar Petroleum	Qatar Petroleum	Qatar	Large domestic producers
Rosneft	Rosneft	Russia	Internationalized operators
Saudi Aramco	Saudi Aramco	Saudi Arabia	Large domestic producers

SHT	Société des Hydrocarbures du Tchad	Chad	Small domestic producers

NOC	**NOC Full Name**	**Home Country**	**Production Peer Group**
Sinopec Corp	China Petroleum and Chemical Corporation	China	Internationalized operators
Sinopec Group	China Petroleum and Chemical Corporation—Group	China	Internationalized operators
SNH (company reporting)	Société Nationale des Hydrocarbures	Cameroon	Small domestic producers
SNH (EITI)	Société Nationale des Hydrocarbures	Cameroon	Small domestic producers
SNPC	Société Nationale des Pétroles du Congo	Congo (Rep.)	Small domestic producers
SOCAR	State Oil Company of Azerbaijan Republic	Azerbaijan	Medium domestic producers
Sonahydroc	Société Nationale des Hydrocarbures	Dem. Rep. of Congo	Pre-production NOCs
Sonangol	Sonangol Group	Angola	Large domestic producers
Sonatrach	Sonatrach	Algeria	Large domestic producers
Staatsolie	Staatsolie	Suriname	Small domestic producers
Sudapet	Sudan National Petroleum Corporation	Sudan	Small domestic producers
TAQA	Abu Dhabi National Energy Company	United Arab Emirates	Internationalized operators
Timor GAP	Timor GAP	Timor-Leste	Pre-production NOCs
TPDC	Tanzania Petroleum Development Corporation	Tanzania	Small domestic producers
Turkmengaz	Turkmengaz	Turkmenistan	Large domestic producers
YOGC	Yemen Oil and Gas Corporation	Yemen	Small domestic producers
YPF	Yacimientos Petrolíferos Fiscales	Argentina	Large domestic producers
YPFB	Yacimientos Petrolíferos Fiscales Bolivianos	Bolivia	Medium domestic producers

Source: Natural Resource Governance Institute (NRGI), 2020

APPENDIX 2 - Decision Tree to Determine Fiscal Framework Priorities



Source: IMF Staff Discussion Note 2012:
https://www.imf.org/external/pubs/ft/sdn/2012/sdn1204.pdf

APPENDIX 3 - Fiscal Frameworks for Resource-Rich Countries

FISCAL POLICY INDICATORS		
Fiscal balances	Non-resource primary fiscal balance Overall fiscal balance	
FISCAL SUSTAINABILITY BENCHMARKS		
Long-term fiscal sustainability benchmark	PIH perpetuity/annuity Net wealth stabilization/convergence	
FISCAL POLICY ANCHOR/RULE (Short to medium term)		
	Capital scarce	**No scarcity of capital**
Long-lasting resources	Flexible non-resource primary balance rule plus expenditure growth cap Price-based rule (overall balance) plus expenditure growth cap	Non-resource primary balance rule Price-based rule (overall balance) plus expenditure growth cap
Short-lasting resources	Flexible non-resource primary balance rule plus expenditure growth cap Modified PIH-based framework (non-resource primary balance)	PIH-based framework (non-resource primary balance)

Source: IMF Staff Discussion Note 2012:
https://www.imf.org/external/pubs/ft/sdn/2012/sdn1204.pdf

APPENDIX 4

In line with the IMF discussion notes this study adopts and proposes the following principles to guide the formulation of fiscal policy frameworks in petroleum resource-rich developing countries:

1. The fiscal policy framework should reflect country-specific characteristics like revenue dependency and volatility as well as the resource revenue horizon, which may change over time.
2. The framework should ensure the sustainability of fiscal policy. Benchmarks of sustainability can be derived from a Permanent Income Hypothesis (PIH) framework or from a broader focus on stabilizing government net wealth (in some cases at a level below today's net wealth).
3. Policymakers can choose alternative fiscal anchors, either primarily addressing fiscal sustainability concerns (e.g., PIH-based rules) or focusing more on short-term demand management (e.g., a price-based or structural balance rule). Country characteristics should guide the choice of the appropriate fiscal anchor (Appendix 2).
4. Fiscal frameworks should be sufficiently flexible to enable the scaling-up of growth- enhancing expenditure, especially in Low-Income Countries (LICs).
5. In countries with large absorption constraints, the pace of scaling-up may have to be gradual, while public financial management systems are reinforced and domestic supply constraints softened.
6. The volatility and uncertainty of resource revenue is critical for the design of fiscal frameworks, and having sufficient precautionary fiscal buffers is critical. Technically, a strong revenue forecasting framework needs to be developed and spending plans framed in a medium-term perspective.
7. The credibility and transparency of the fiscal policy framework can be supported by a well-designed resource fund, but the latter cannot be a substitute for an appropriate policy framework nor a panacea that obviates the need to strengthen overall fiscal management capacity. Funds need to be fully integrated with the budget and the fiscal framework.

Source: IMF Staff Discussion Note 2012:
https://www.imf.org/external/pubs/ft/sdn/2012/sdn1204.pdf

APPENDIX 5 - NOC Power Pillars and Synergetic Effects

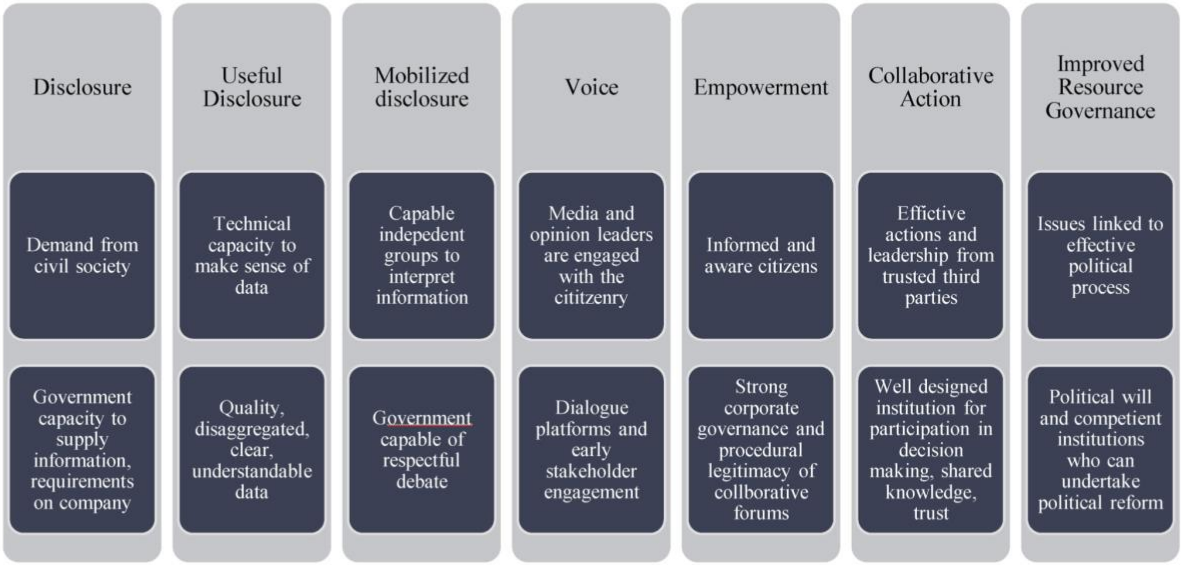
Power Pillars	Synergetic Effects
1. Easy access to petroleum resources	▪ It gives NOCs more leverage in technology transfer negotiations with IOCs. For instance, Statoil's technology learning process was accelerated by the establishment of ''Goodwill agreements'' with IOCs, under which IOCs had to contract oil and gas-related R&D to Norwegian companies in order to be regarded as a serious candidate for obtaining contracts on offshore oil and gas E&P on the Norwegian continental shelf. ▪ It also provides opportunities for testing and evaluating new technologies, and in providing a certain market for viable solutions. ▪ In combination with high oil prices, it has given GNOCs an over-supply of funds and unprecedented financial power. ▪ The more access to oil and gas resources and operatorship projects, the better the chance to develop the expertise and experience in the up- stream oil and gas industry. As GNOCs increasingly become global players, their managerial competencies are getting up to par with the leading IOCs.
2. Financial Strength	▪ It allows GNOCs to invest heavily in R&D and innovative capacities. The R&D investment of CNPC, for instance, was around one billion Euros in 2009, which shows a dramatic 27.4 percent increase over the preceding year. CNPC has established 76 scientific research institutions with 28,486 scientific research personnel and engaged in various long-term partnerships with the Chinese Academy of Sciences, universities and research organizations. ▪ Backed by a strong financial base, GNOCs have the option of acquiring technology from service companies to challenge IOCs traditional advantage. ▪ At a time when most IOCs have cut back on their investment spending, GNOCs have used their financial strength in order to acquire better quality assets. The Chinese GNOCs, in particular, have done substantial investments in resource-rich countries. Only in 2009, Chinese GNOCs, along with other Chinese companies,

	invested in 10 overseas acquisitions for a total of USD 18.2 billion. ▪ It gives GNOCs the ability to tap into the industry's shallow talent pool and hire seasoned top managers.
3. Advanced Management Competency	▪ It puts GNOCs in a better position to develop and effectively orchestrate innovation networks and reinforce their technological learning processes. The successful case of the PETRORS Network, a multi-sectoral innovation network which helps boost the competitiveness of Petrobras, is an apt case in point. By early 2005, one hundred and ninety companies (suppliers and sub-suppliers) and over 90 research labs were members of the network, besides the Petrobras and the financial agents. ▪ It has led GNOCs to advanced financial and treasury management operations; improved international tax planning; and better compliance with international institutional and accounting standards. These achievements not only improved their profitability but also their financial transparency and accountability. These have enabled GNOCs to have more of a chance of financing their activities through international capital markets. ▪ It has always been a key factor in the decisions made by major resource owners to grant operating licences to foreign operators.
4. Advanced technological capability	▪ It has been a key factor in the decisions made by major resource-owners to grant operating licences to foreign operators. It, for example, has been a key enabler in Petrobras' access to the oil and gas resources of other countries, since the company expanded primarily towards other areas where it could rely on its own technical leadership in deep-water operations. ▪ Technology transfer and licensing has become increasingly important as a source of revenue to GNOCs.

Source: Adapted from Seyed K. Bagheri and Alberto Di Minin in JWELB 2015.[62]

[62] Seyed Kamran Bagheri and Alberto Di Minin, 'The Changing Competitive Landscape Of The Global Upstream Petroleum Industry' (2015) 8 The Journal of World Energy Law & Business 1.

APPENDIX 6 - Disclosure Framework

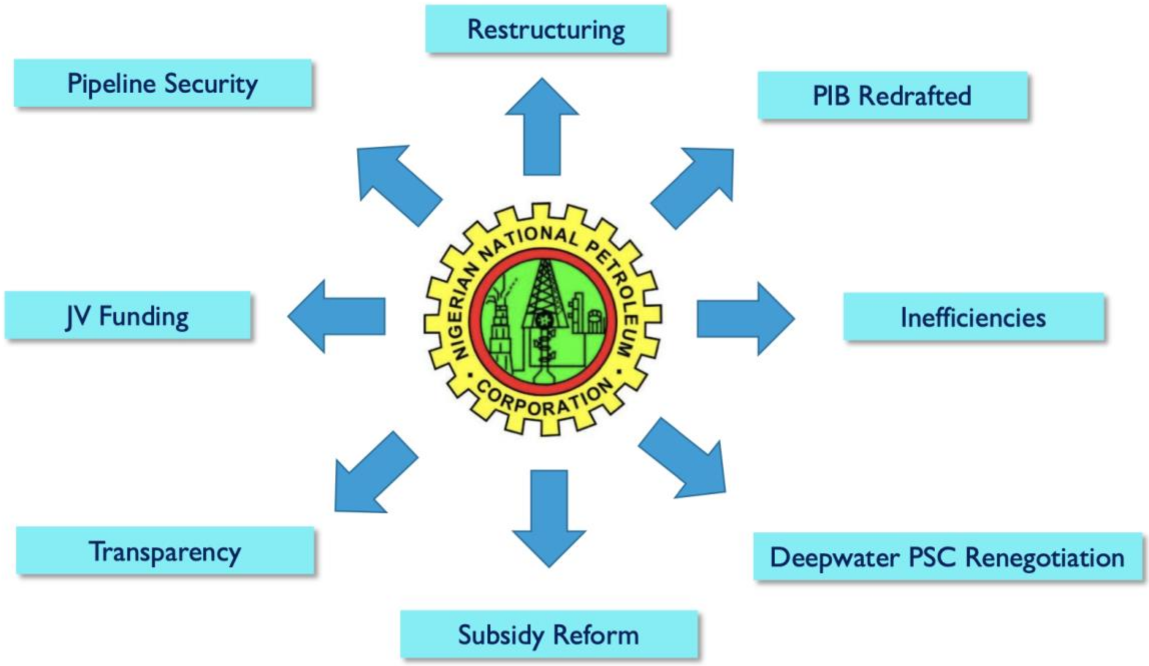


Top Row depicts the Stages of disclosure. Second row shows the Drivers, and the bottom row shows the drivers.

Source: D. Boldbaatar, N.C. Kunz and E Werker 2019.[63]

[63] See D. Boldbaatar, N.C. Kunz and E. Werker, 'Improved Resource Governance Through Transparency: Evidence From Mongolia' [2019] The Extractive Industries and Society.

APPENDIX 7 - Nigerian Petroleum Sector Reform



Source: Michael Humphries, ‘Lessons to be Learned from Mature Jurisdiction, 2020.[64]

[64] Michael Humphries, 'Lessons To Be Learned From Mature Jurisdiction', *Stephenson Harwood LLP: Three-Day Workshop for National Oil Companies*(Stephenson Harwood LLP 2020).