UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

TABLE OF CONTENT

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Faculty of Law

Intention to submit the mini-dissertation/dissertation/thesis for examination purposes

I, (title, initials and surname of student) ………S J Massinga…………………………………..……,

with student number: ………17309728………………………. registered for the

LLM (Coursework)/LLM Research/LLD

with e-mail address: ……smassinga@yahoo.com……… and cell phone no.: +258 82 8312360 …..

hereby notify the Administration of the Faculty of Law, University of Pretoria of my intention to submit my mini-dissertation/dissertation/thesis on (date)……01/11/2017……………………..

The title of my mini-dissertation/dissertation/thesis is:

………

………

Please find attached a 250 word summary of my mini-dissertation/dissertation/thesis for purposes of appointing an external examiner.

I am working under the supervision of (title, initials and surname of supervisor)

…………………………………Adv.…Leonardus J. Geber……………………………………….…… with

personnel number: ……………………………………

Remarks of supervisor:

………

………

……………………………………………………………… ………………………………….
Signature of Student Date

……………………………………………………………… ………………………………….
Signature of Supervisor Date

……………………………………………………… ………………………………………….
Signature of Head of Department Date

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

DECLARATION OF ORIGINALITY

UNIVERSITY OF PRETORIA

The Department of …….…………………PUBLIC LAW……………………………….…………. places great emphasis upon integrity and ethical conduct in the preparation of all written work submitted for academic evaluation.

While academic staff teach you about referencing techniques and how to avoid plagiarism, you too have a responsibility in this regard. If you are at any stage uncertain as to what is required, you should speak to your lecturer before any written work is submitted.

You are guilty of plagiarism if you copy something from another author's work (eg a book, an article or a website) without acknowledging the source and pass it off as your own. In effect you are stealing something that belongs to someone else. This is not only the case when you copy work word-for-word (verbatim), but also when you submit someone else's work in a slightly altered form (paraphrase) or use a line of argument without acknowledging it. You are not allowed to use work previously produced by another student. You are also not allowed to let anybody copy your work with the intention of passing if off as his/her work.

Students who commit plagiarism will not be given any credit for plagiarised work. The matter may also be referred to the Disciplinary Committee (Students) for a ruling. Plagiarism is regarded as a serious contravention of the University's rules and can lead to expulsion from the University.
The declaration which follows must accompany all written work submitted while you are a student of the Department of ……………PUBLIC LAW…….……………………………………..………………… No written work will be accepted unless the declaration has been completed and attached.

Full names of student: ……Sérgio Joao Massinga……………………. Student number:

………………………17309728…………………………………….. Topic of work: Can Domestic Stake holding in the

Extractive Industry Projects Remove Resource Curse? ………………………………………………………….

Declaration

1. I understand what plagiarism is and am aware of the University's policy in this regard.

2. I declare that this ……DISSERTATION………………………………… (eg essay, report, project, assignment, dissertation, thesis, etc) is my own original work. Where other people's work has been used (either from a printed source, Internet or any other source), this has been properly acknowledged and referenced in accordance with departmental requirements.

3. I have not used work previously produced by another student or any other person to hand in as my own.

4. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

SIGNATURE ……………………………………………………………………………………………………….

S 4726/09 (amended)

Can local shareholding in extractive companies remove the resource curse?

by

MASSINGA, Sérgio Joao

Student number: 17309728

Submitted in partial fulfilment of the requirement of the completion for the degree

MAGISTER LEGUM (LLM) in EXTRACTIVE INDUSTRY LAW IN AFRICA

Prepared under de supervision of

Adv. Leonardus J. Gerber

Department of Public Law

University of Pretoria

October, 2017

RSA

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Faculty of Law

Annexure M

Submission form for mini-dissertation/dissertation/thesis

1. Personal details

Title: …………………………… Student number: ……17309728………………

Surname: ……………Massinga…………………………………………………………………..

First names: ………S J…………………………………………………………………………………………...

2. Home/postal address: …………98 Rua Anibal Aleluia, Maputo…………………………………………………

…………………………………………………………………………...… Postal Code: ……………………………..

Tel.: ………………………………………………………… Cell no: …………………………………………………...

3. Work address: ………1487 Av. Eduardo Mondlane
…………………………………………………………………

…………………………………………………………………………… Postal Code: …………………………

4. Details of mini-dissertation/dissertation/thesis

Degree: ………LLM IN EXTRACTIVE INDUSTRY LAW IN AFRICA……………………………………………

Department: ………PUBLIC LAW………………………………………………………

Supervisor: …………………Adv. Leonardus J,. Geber………………………………………………………

Co-supervisor: …………………………………………………………………………………………..…

5. Statement by candidate

I declare that the mini-dissertation/dissertation/thesis, which I hereby submit for the abovementioned degree at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at another university. Where secondary material is used, this has been carefully acknowledged and referenced in accordance with University requirements. I am aware of University policy and implications regarding plagiarism.

Signature: ………………………………………………………… **Date**: 31/10/2017………………………………..

6. Statement by supervisor:

I declare that I hereby approve that (full names of student) …………………………………………………………..

may submit his/her mini-dissertation/dissertation/thesis as well as the prescribed summary.

The co-supervisor has agreed to the submission (if applicable).

……………………………………………… ………………………………..
Supervisor **Co-supervisor** (if applicable)

Date: …………………………………… **Date**: ………………………

ABSTRACT

Can domestic stake holding participation in the business structure of the Extractive industry remove the resource curse? This is a question everyone should be asking in a time when, apparently, almost everything else seems to have failed in the extractive industry. Multinationals have invested heavily in the sector in Africa; governments changed the legislation a number of times and undertook other reforms with the direct support of multinational financial institutions. African countries have opened their doors wide to investors by granting those incentives but, nothing changed.

There is corruption everywhere, people starve and poverty continues to escalate. Wars and authoritarian regimes increase. Some scholars call it resource curse and defend people should stop exploiting oil, gold and diamonds in order to restore peace. Those who are moderate cry for more liberalization and advocate for the total withdrawal of the state from the sector living it for those who are efficient. Others raise the voice high campaigning for the nationalization or rather indigenisation of natural resources. The list could continue and the tension goes higher. This dissertation tries to respond to those concerns. It argues that the so called resource curse is a "myth". It is a result of man's behaviour and the absence of appropriate institutions and mechanisms for better management. It goes beyond by suggesting that the missing element in the process is the proper inclusion of the domestic private capital.

Central to the argument is the conviction that, among other things, the involvement of nationals in the structure of the extractive industry will create the necessary capacity to demand the political elite to provide transparency and to adopt sound development policies that favour diversification. In that way the information asymmetry is reduced thus reducing the conflicts. Certainly for all to be effective the adoption of comprehensive and practical promotional instruments need to be established and operationalized if resource rich countries are to turn on the blessings that mineral resources can and should represent.

To the Owner of all riches, the Creator, giver and who sustains everything and everyone, God the Father of the Lord Jesus Christ, be all honour, glory now and forever.

Acknowledgements

It is time to thank, God first for He gave me life and people around me.

You my wife, Oelza, the most precious diamond no mine will ever give

You my babies, Titasse and Lael, the juniors with dreams and vision

You my mothers, Ines and Helena, noble stakeholders in life

You my praying church a very dear supporting community

You my class mates the front line rescuers in the mining site

You Kathy and Nelson the investors

you Leon, the major and

Supervisor in all this

Thank you

I

ABREVIATIONS

AU	African Union
BDP	Botswana Democratic Party
BIT	Bilateral African Investment Treaty
BSE	Botswana Stock Exchange
CEDA	Citizen Entrepreneurial Development Agency
EI	Extractive Industry
EITI	Extractive Industry Transparency Initiative
GDP	Gross Domestic Product
ICSID	International Centre for Settlement of Investment Disputes
IFI	International Financial Institutions
JSE	Johannesburg Stock exchange
LSE	London Stock Exchange
NEITI	Nigerian Extractive Industry Transparency Initiative
NGRI	Natural resources Governance Institute
NGSE	Nigerian Stock Exchange
NNPC	Nigerian National Petroleum Corporation
OECD	Organization for Economic Development Cooperation
SADC	Southern Africa Development Community

SMME	Small and Medium Enterprises
SOC	State Owned Company
TNC	Trans National Company
TSX	Toronto stock Exchange
UNECA	United Nations commission for Africa
UNDP	United Nations development Program

CHAPTER 1:

Introduction

1.1 Background

The race to join the extractive industry has intensified over the last few decades across Africa where the Foreign Direct Investment (FDI) grew tenfold from the year 2000 to 2008 causing, however, very marginal change to the local economies.[1] It is estimated that two thirds of the total African subsoil has underlying mineral resources.[2] As Carlos Lopes, the General Secretary of the United Nations Economic Commission for Africa (UNECA) writes:

> *"Africa is said to have 10 percent of the world's reserves of oil, 40 percent of its gold, and nearly 90 percent of the chromite and the platinum metal group, with probably much more yet to be discovered"*[3].

Interestingly, seven out of the top ten diamond producers in the world are in Sub-Saharan Africa while of the top 10 consumers, eight are in Europe and two in Asia. There is a huge gap of over $50 billion between the costs of those precious stones from production to the final market. In fact, in 2011, diamonds rendered $15 billion to the miners and the same quantity was valued at $24 billion after travelling the long chain of cutters, polishers and dealers and then sold by an astonishing amount of $71 billion to the final purchasers.[4]

---

[1] Hyden G., *African politics in comparative perspective*, (Cambridge University Press: New York, 2012) at 18.

[2] Bellmann, C. et al; *Trade and Investment Framework in Extractive Industries: Challenges and Options*, (ICTSD, WEF: Geneva, 2016) at 1.

[3] Lopes C., *Africa must benefit from its mineral resources*; available on (http://www.uneca.org/africa-must-benefit-its-min) last accessed 27 June 2017.

[4] Spektorov Y. *et al, The Global Diamond Industry: Portrait of Growth, (*Bain and Company, AWDC: 2012) at 12.

With that in mind, governments, civil society, communities and other stakeholders at large, are searching for ways to maximise opportunities from the sector. There has been a slight increase in FDI inflow[5] in the field, dominated by multinational enterprises.[6] In 2017, for example, FDI is estimated to increase significantly to $65 billion, which is a sign of recovery from a low threshold of $59 billion in 2016 representing one third of what goes to North America and less than one fifth of FDI to Europe.[7] Figures report that in 2005 alone, shareholders in the mining sector received about $18 billion and America's five super majors operating in the oil industry reportedly gained $342.2 billion in the period between 2001 and 2006.[8]

People in all spheres of life are concerned by the exploitation of natural resources for one reason or another. Some see extractive resources as an opportunity to increase profits and gain more wealth, while others consider them to be a kind of curse, not even to be thought about[9]. Regardless of which view is taken, extractive industries dominate lives, shape the environment, influence the development of nations and determine State policy.

Nevertheless, over time, the sector has created more controversy than consensus.[10] It is indicated that more than 350 million people live on less than $1.5 per day in the Sub Saharan Africa.[11] Of the top 250 oil and gas companies that operate in the African business environment, only six are from within the continent.[12]

The general belief is that foreign transnational companies are not paying what they should or worse, they are looting the African countries.[13] Yet, for all the planning at domestic and regional level in Africa pertaining to the need to induce development through

---

5 The extractive Industry is attractive to FDI as between 60 to 90 per cent of the total FDI in Africa is to natural resources. *idem*, at 2.

6 Hyden G., *supra 1* at 16- 18.

7 Zhan. J. X. *et al*, Investment *and Digital Economy*, World Investment Report, (UNCTAD: Geneva, 2017) at 3.

8 Standing A., *Corruption and the Extractive Industry in Africa: Can combating corruption cure the resource curse?, (Institute for Security Studies*: Cape Town, 2007) at 1.

9 Alfonso, P. P., *The devil´s excrement*, available at (http://www.economist.com/node/1795921)

10 Pegg S., *Poverty reduction or poverty exacerbation*, (Bank Information Centre: Washington DC, 2003) at 3.

11 Shepherd A. et al, *The Chronic Poverty Report 2014-2015: The Road to zero Extreme Poverty* (Overseas Development Institute: London, 2014), at 129.

12 Ford N., *Africa's Top 250 Oil and Gas, (*African Business Magazine, 18 June 2014), available at http://africanbusinessmagazine.com/sectors/commodities/africas-top-250-companies-oil-gas/ last accessed 13 August 2017.

13 Bakre O. M., *Looting by the Ruling Elites, Multinational Corporations and the Accountants: The Genesis of Indebtedness, Poverty and Underdevelopment of Nigeria*, (School of Accounting, Finance & Management: Colchester, 2015), at 13-15.

the exploitation of natural resources, these countries have continued to rely heavily on foreign inputs, a major reason why they failed to benefit from their resources.[14] In fact,

> *"the paradox of African mining today lies in its historical structural deficiencies" given that "most of the industry has very weak links with the rest of the national economy, the mines' ownership and operation are in the hands of foreign companies, most of the minerals are exported in raw form and the industry imports most of its inputs from abroad."* [15]

The need to attract domestic private investors into the Extractive Industry (EI), has been recognised and adopted for 20 years in the Southern Africa Development Community (SADC) Protocol on Mining but not much has happened, raising questions on the reasons for failing to do so.[16]

1.2 Research questions:

The question this dissertation intends to answer is: can local domestic shareholding in extractive companies remove the resource curse and promote development? The outcome of this question appears to be the solution to the chronical tension between different stakeholders and a way to create a peaceful environment in which non-renewable resources can be exploited for mutual benefit. However, to get to that solution it is important to understand the following: 1. what the resource curse is and how does it manifest itself; 2. how is the business ownership in the extractive industry structured and what influences such an organization; and 3. why do resource rich countries differ in their results? The intent of these three secondary questions is to better understand how the involvement of domestic business in natural resources can, effectively, maximize the gain to the country and its people in Sub-Saharan Africa.

---

[14] Africa Mining Vision, (African Union: Addis Ababa, 2007), at 3.

[15] Tankeu E. *et al*, *Minerals and Africa's Development: The International study Group on Africa's Mineral Regimes* (UNECA: Addis Ababa, 2011), at 151.

[16] Article 2 (7) General Principles, SADC Mining Protocol of 1997.

1.3 Hypothesis

A distorted ownership structure in the extractive industry reinforced by poor policy, an unreliable legal framework and mismanagement of resources represents the manifestation of the resource curse which is not conducive to development.

1.4 Aim and objective

This dissertation intends to make a contribution to the broader debate on natural resources and development. The main objective is to discuss local shareholding in extractive companies as a strategy to remove the resource curse. With the questions raised and the main objective in mind, this dissertation intends to contribute to further research on stake holding participation in mining, oil and gas projects.

1.5 Methodology

This is a desk research dissertation and an analytical study developed on the basis of qualitative research methodology. In this regard, secondary data has been important to understand the relationship between mineral resources and development, as well as to capture the social, political and economic construct of different variables and their interplay in these relationships. Starting from the resource curse effects perspective as a theoretical framework, it uses qualitative methods to move beyond the traditional understanding of the resource curse by evaluating the quality of the relationships among different stakeholders in natural resources, governmental policy on natural resources, the legal framework and the ownership structure in the extractive industry variables which together comprise the foundation to better comprehend the main objective of this dissertation.

Given the complexity of those relationships this research has made use of triangulation techniques combining different qualitative methods such as documental analysis, literature review, and comparative analysis to collect and interpret secondary data. The documental analysis method was mainly used to gather data from legal documents (legislation and official policy documents on the subject of natural resources and business) to understand how the State regulates local and foreign private investments in the extractive industries.

In relation to literature review as a research method, it helped to make a qualitative review of academic writings (books and journal articles) on legal, economic development, governance and policy fields of inquiry; natural resources are understood to boost economic development when proper policies are in place and the government is able to manage the social expectations of life improvement within the society governed by the rule of law. Thus, a literature review was necessary to support this understanding.

The comparative study method was used to build a significant evidence case about the research phenomenon of this dissertation; the Federal Republic of Nigeria and the Republic of Botswana were taken as examples of two resource rich nations to make a qualitative comparison with regard to the relationship between mineral resources and development in developing countries. Although the comparative method was extremely important in this research, it had some limitations related to the absence of fieldwork data collection which was not conducted due to geographical constraints, the comparison was based on secondary data alone about the two nations. Also, there has been limited research to date concerning the domestic ownership in Extractive Industry (EI) business as to its contribution to development.

1.6 Structure of the dissertation

This dissertation is divided into five chapters commencing with this introductory chapter which provides a broad presentation of what is at stake, its *raison d´etre* and methodology. Chapter two discusses the concept of the “resource curse”, in order to understand its origins and causes, characteristics, effects and its intricacies before concluding by assessing how real it is. In chapter three, the aim is to unpack the different investors in natural resources, their origins, characteristics and openness along with how they operate, their contribution to national economies, financing modes and financial gains.

A comparison of the characteristics and specific aspects of the extractive industry in Nigeria and Botswana is undertaken in chapter four focusing on the impact it has on the two communities, the financial capacity of domestic businesses, the legislative framework surrounding the industry as well as the financial infrastructure. Chapter five, the final chapter, is reserved for analysis, concluding remarks and recommendations which suggest possible ways to overcome the challenges that hinder the advancement of the continent, in other words, to remove the resource curse.

CHAPTER 2:

Understanding the Resource curse

This chapter seeks to understand the phenomenon known as the resource curse by discussing its conceptual definition and addressing its intricacies and manifestations. The aim is to describe its factual occurrence before suggesting ways to overcome it, if indeed it exists.

2.1 Resource curse

Countless researchers have devoted their studies to defining and characterizing the resource curse as the incapacity resource rich countries tend to have in their pursuit of economic, social and political development.[1] Scholars seem to agree that countries which are endowed with greater natural resources tend to grow more slowly than those with no such non-renewable resources.[2] Chief among them are Sachs and Warner who insist that there is a correlation between the resource curse and an abundance of natural resources in a given jurisdiction.[3] The question they pose is, "if natural resources really do help development, why do we not see a positive correlation today between natural wealth and other kinds of economic wealth?"[4]

According to the Natural Resources Governance Institute (NRGI), resource curse "refers to the failure of many resource-rich countries to benefit fully from their natural resource wealth, and for governments in these countries to respond effectively to public welfare

---

1 Canuto O., *Cavallari* M., *Natural Capital and the Resource Curse,* Poverty Reduction and Economic Management Network, (World bank: Washington DC 2012) at 1.

2 Frankel J. A., *The Natural Resource Curse: A Survey of Diagnoses and Some Prescriptions*, John F. Kennedy School of Government, (Harvard University: Cambridge, 2012) *at* 3.

3 El-Gamal M. A., Jaffe A. *Oil, Dollars, Debt, and Crises: The Global Curse of Black Gold*, (Cambridge University Press: New York, 2010) at 15; Ebrahim Zadeh (2003); Sachs and Warner (2001)

4 Sachs J. D., Warner A. M. *The Curse of Natural Resources*, (Harvard University: Cambridge, 2001), at 828.

needs."[5] Advocates of the resource curse theory defend that political and economic performance of those countries are shadowed by poverty, absence of economic diversification and political coherence.[6] The resource curse is referred to as political and economic problems that are inherent to a resource boom. It refers to economic and political diseases that can occur in a given jurisdiction if not mitigated, causing adverse results.[7]

The term 'resource curse', in some instances, is interchanged with what is known as the "paradox of plenty", although some see them as meaning different things.[8] The paradox lies in the fact that although able to capture a significant amount of revenue, nations endowed with natural resources fail to invest in relevant human capital or to develop a diversified economic base.[9] As Harford and Klein defend, "the problem with developing countries rich in extractive resources lies within the short-sighted, suboptimal policies that they follow."[10]

2.1.1 Political effects of the resource curse

A country's performance is largely sharped by its political system and links between natural resources and politics tend to be mutually influential. Politics and policies determine how the resources are exploited and how the revenues resulting from those activities should be distributed. Extractive revenues tend to be the main source of finance to politicians in resource rich nations, hence the tension. The establishment of the political system, in countries

---

5 *The Resource Curse, The Political and Economic Challenges of Natural Resource, (*Natural resources Governance Institute: Washington DC, 2015), at 2.

6 Slack K. Politics of *Why are resource-rich countries poor? Politics*, The Poverty, Ideas and analysis from Oxfam America's policy experts, 18 Nov. 2013, available at (https://politicsofpoverty.oxfamamerica.org/2013/11/why-are-resource-rich-countries-poor-politics/ last accessed 22 Sep 2017.

7 Djoumessi D.T., *The Political Impacts of Sino-US Oil in Africa: An international explanation of the Resource Curse in Africa Petro-States*, (Adonis & Abbey: London, 2009) at 56.

8 Karl T. L., *The Paradox of Plenty: Oil Booms and Petro-States*, (Cambridge University Press: New York, 1999), at. 47-48.

9 El-Gamal M. A., Jaffe A. *supra (3)* at 14-15.

10 T. Harford, M. Klein, *Aid and the Resource Curse*, (World Bank: Washington DC, 2005) at 1.

endowed with natural resources, tends to be determined by the power control over the resources and the access mechanism that is put in place to favour certain regimes and disregard the rest.[11]

Because of this violence and conflict tend to occur, people become reluctant to let their political power go thus refusing to introduce democracy.[12] In the exercise of intentionally hindering the majority from having access to resources and in order to perpetuate the elite ruling group, the regime becomes less transparent and more repressive.[13]

2.1.1.1 Conflict and violence

As Mcloughlin writes, the exploitation of the entire natural resource base can become a source of conflict threatening peace and stability.[14] This has been true for centuries and has increased since the end of the cold war as different groups have had to find alternative ways to finance conflicts, other than the support they formerly had from the international powers. [15]

There can be external and internal causes of conflict and violence in resource rich countries; western[16] countries are said to use strategies of both direct and indirect involvement in a conflict inducing turmoil in order to guarantee access to resources for their domestic use or to enable western companies to have control over reserves in certain countries.[17] But, military struggles can also be indigenous caused by opposing forces within the same country. Different forces in a given jurisdiction quarrel over marginalization and exclusion in benefiting from

---

[11] Kolstad I., Wiig A., Williams A., *Mission Improbable: Does Petroleum-Related Aid Address the Resource Curse? (*Energy Policy: Bergen, 2009), at 955-956.

[12] Mukund, K., The Resource Curse, *The Political and Economic Challenges of Natural Resource, (*Natural resources Governance Institute: Washington DC, 2015), at 2.

[13] Le Billon P., *The Political Ecology of War: Natural Resources and Armed Conflicts*, (Political Geography: Oxford, 2001), at 567.

[14] Mcloughlin C., *Natural resource exploitation and peacebuilding*, (Governance and Social Development Resource Centre: , 2012), at 1.

[15] Le Billon P., *supra* (13) at 562.

[16] El-Gamal M. A., Jaffe A. *supra (3)* at 16-17.

[17] *Idem* at 16.

resources.[18] This is the case in the DRC civil war which is sustained by the control and exploitation of natural resources, the main motive and source of finance to either party.[19] As Ellman suggests, the reason behind this is the fact that "resource points are easier to monopolize."[20] However, it is also true that internal conflict often derives from foreign support. Either group, "rebels" or government, are generally supported by external "organizations" in exchange for resources as the guarantee or direct payment for the arms.[21] When it proves difficult or not effective to use internal forces, western powers end up engaging in direct intervention, like the wars in Iraq and Libya.[22]

Armed conflicts contribute to slowdown production and impede the government from benefiting from the revenue, thus hindering the majority of the nation from harvesting the benefits. They destroy infrastructures, provoke famine and poverty and divert countries from their main development efforts.

2.1.1.2 Democracy

Resource rich countries are also considered to be less democratic.[23] It has been extensively argued that the abundance of resources and the hunger for control over them tend to influence and distort the quality of institutions, political processes and governance leading to their failure.[24] The literature considers that these countries are prone to political turmoil, weak democratization and lack of transparency. [25]

---

[18] Ross M. L., *How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases*, (University of California: Los Angeles, 2004) at 40.

[19] Le Billon P., *supra (13) at 16 -17.*

[20] Ellman, M., *Russia's Oil and Natural Gas Bonanza or Curse?*, (Anthem Press: London, 2006), at 193.

[21] Military expenditure Iran, Iraq and Saudi Arabia is estimated at $ 100 billion between 1973 and 1981, less than 10 years (El Gamal: 2010 *supra [3]* at 90).

[22] *Idem* at 90-91.

[23] Frankel J. A., *supra* at 9-10.

[24] Ellman, M., *supra* (20) at 191

[25] Caselli F., Andrea Tesei. "Resource Windfalls, Political Regimes, and Political Stability." Review of Economics and Statistics, vol. 98, no. 3, 2016, pp. 573–590., doi:10.1162/REST_a_00538.

In order to sow the belief it is said that through the wind of democratization that was testified in the period between 1970 and 1990 when about 50 countries decided to embrace democracy, only two countries, Nigeria and Indonesia, were rich in oil.[26] This trend followed as almost all the Arab oil producers have resisted democratization.[27] However, as per Ellman, "many of the political pathologies that are identified in the resource curse literature are (…) probably over-determined"[28] and the resistance to democratization is not always linked to resource abundance, *per se*, but to a kind of rejection of the western system and culture.[29]

> Autocratic "regimes have increasingly immunized themselves against their exposure to liberal, Western-dominated elements of globalization, and expanded the menu of policies, partners, and resources on which they can draw to push back when confronted with pressures for political reform, media freedom, rule of law, greater transparency, more accountability, and expanded autonomy for civil societies."[30]

Having that pointed out, however, evidence from the Scandinavian countries show that, resource rich countries that embraced democracy way before the discovery of natural resources tend to be stable. Caselli *et al* admits that those countries are not affected at all by a natural resource windfall.[31] Dedier suggests that before one considers the political situation in a resource rich country at a given time after the boom, one must consider how it "was before oil" as well as the kind of institution it had in place.[32] In fact, when oil was discovered in Norway, for example, many institutions "were already well prepared to ensure that the resource wealth

---

26 Luong P.J., Weinthal E., *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States*, Cambridge Studies in Comparative Politics, (Cambridge University Press: New York, 2010) at 323-324.

27 Frankel J. A., *supra* at 9; Ross, M. L., Does oil Hinder democracy, (Cambridge University Press:, 2008), at 325-326.

28 El-Gamal M. A., Jaffe A., *supra (3)* at 192.

29 *Idem* at 18.

30 Heydemann, S., Telhami S. *et al Oil, Globalization and Political Reform, (*Brookings: Washington DC, 2009) at 27.

31 Francesco C., Tesei A., Resource Windfalls, Political Regimes, and Political Stability, Review of Economics and Statistics, (Havard University: Cambridge, 2016) at 573-574.

32 Djoumessi, Didier T., *supra* (7) at 55 -57.

would also be to the best for the population,"[33] because, Karl explains, "petro states are built on what already exists"[34]

2.1.1.3 Corruption and lack of transparency

The extractive industry is also prone to corruption and lack of transparency.[35] In fact, autocratic regimes rely on secrecy to better exploit people and hold tight to power. As per the World Bank, corruption is "the abuse of public power for private gain" [36] and it affects development. According to José Ugaz from Transparency International (TI) corruption is so detrimental that "people are deprived of their most basic needs and go to bed hungry (…), while the powerful and corrupt enjoy lavish lifestyles with impunity."[37]

Corruption has eroded all phases in the extractive industry; reports indicate that in 1995 alone, French companies paid about FF10 billion in bribes while Germany corporations are reported to have paid above $3 billion a year in bribes to foreign companies by 1996.[38] It is believed that 20% of world bribery cases occur in the extractive industry.[39] Corruption in the extractive industry results in, among other issues, market distortion, high cost of doing business, reduction in public revenue and increase in public spending as well as income inequality.[40] Discretionary powers and politicisation in extractive decision making is seen as

---

33 Mehlum H., Moene K., Torvik R., *Mineral rents and social development in Norway*, Mineral Rents and the Financing of Social Policy (Palgrave Macmillan UK: 2012) at 155-184.

34 Karl T. L., *Paradox of Plenty: Petro States and Oil Boom,* (University of California Press:, 1999), at 74.

35 Standing A., *Corruption and the Extractive Industries in Africa : Can Combatting Corruption Cure the Resource Curse?* (Institute for Security Studies Papers: Cape Town, 2007) at 3.

36 *Helping Countries Combat Corruption: The Role of the World Bank*, Corruption and Economic Development, World bank, available on (http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm#note1) last accessed 22 October 2017.

37 Corruption Perceptions Index 2016, Transparency International available at (https://www.transparency.org/news/feature/corruption_perceptions_index_2016) last accessed 22 Oct 2017

38 Tanzi V., *Corruption Around the World: Causes, Consequences, Scope and Cures*, (IMF: Washington DC, 1998), at 563.

39 Liberti L. *et al*, *Corruption in the extractive value chain: Typology of risks, mitigation measures and incentives*, (OECD Publishing: Paris, 2016), at 10.

40 Begovic B., *Corruption: concepts, types, causes and consequences*, (Center for Liberal-Democratic Studies:Milana,2005) at 6.

part of the problem that is somehow difficult to fully understand given its opacity (no clarity).[41] In the extractive industry the problem is felt from the access to the reserves up to the disclosure of the revenue mobilization, its distribution from operation launch to closure. During the contracting process extractive company representatives can pay large amounts of money as "commissions" in order to obtain profitable deals, tax incentives and other benefits.[42]

2.1.2 Economy effects of the resource curse

Although it is agreed that the resource curse cannot be caused by economic variables alone, scholars indicate that there are at least four economic factors that are linked to it, divided into two broader sections.[43] Perceived instability in commodity markets as well as the decline in terms of trade falls at the international realm while poor economic linkages and the Dutch disease are felt in the national arena.

In general, the economic arguments of the resource curse tend to suggest that when the flow of capital should aid sustainable development of the resource rich countries, what has been witnessed is the opposite. [44] The boom, according to resource curse scholars, turns into bust causing deprivation and allowing resource poor countries to be in a better situation, economically, than their counterpart resource rich countries. [45]

Dutch disease, revenue volatility, enclave effects and employment are indicated as the elements of economic influence of the resource curse and are dealt with below.

[41] Corruption in the extractive industry is multi layered, involves shell companies and various ghost companies. In many cases there are no mechanisms to verify the legality and transparency in contract awarding. (Liberti.E. *et al*, *Supra at 48).*

[42] Tanzi, V. *supra (38) at 563.*

[43] Cameron P. D., *Oil, Gas, and Mining: A Sourcebook to understanding the Extractive Industry* (World Bank: Washington DC, 2017) at 293.

[44] Sustainable development is the ability of the present generations to meet its needs without compromising the ability of the future generations to meet their own needs (WCED- Report: Our Common Future, chapter 2 -1987)

[45] Frankel J. A., *supra (2)* at 2.

2.1.2.1 Dutch disease

Dutch disease is the imbalance created in an economy given the large inflow of foreign currency resulting from natural resource or any other activity.[46] Given the perceived high revenues the resource sector also tends to overcrowd the capital and human resources from other sectors causing them to shrink.[47]

In many cases, the resource boom creates an imbalanced scenario; the economy suffers as the labour force abandons other sectors like agriculture and industry in search for higher pay in the extractive industry. [48] The production cost for manufactured goods raise greatly, local produces become less competitive in the domestic and international markets and imported goods become cheaper.[49] In this case the local currency becomes very strong and makes it difficult for other sectors to produce in order to export.[50]

2.1.2.2 Revenue Volatility

Natural resources commodity prices are highly volatile which influences the government capacity to deliver goods and services during the down tides of the cycle. [51] The ups and downs have been felt for decades in the extractive industry as a number of examples reveal.[52]

It is indicated that the international crisis that sparked the world economy downfall in the 1970s was linked to the rise in oil prices by almost 400 percent influenced by transnational companies.[53] In the attempt to balance the market following the high tide, the prices fell but had to rise again in 1979 experiencing, in the following years, a relative stabilization.[54]

---

46 Kojo N. C., *Demystifying Dutch Disease, (World Bank: Washington DC, 2015), at* 2.

47 Djoumessi, Didier T. The Political Impacts of Sino-US Oil in Africa: An international explanation of the Resouce Curse in Africa Petro-States, (Adonis & Abbey: London, 2009), at 41
45-47

48 *Cameron, D. P., Supra (43) at 23-24, 32*

49 Gelb A. H., *Oil Windfalls Blessing or Curse?* (Oxford University Press: New York, 1988) at 23.

50 *Idem* at 22.

51 *Idem* at 138.

52 *Idem*.

However, soon, in the period from 2001 to 2008, the commodity prices experienced a significant boom amounting to almost a 230 % rise. [55] The commodity price fluctuation can be witnessed by what happened in just a year concerning oil when the crude barrel was traded at $32.88 in the first quarter of 2003 declining to $28.91 towards the end of the same year before it rose again to $37.63 per barrel (pb) by May 2004 pushed by oil demand.[56] Even worse, oil prices declined steadily from $115 in 2014 to a mere $35 in 2016 causing a very sharp reduction in revenue for many countries.[57]

However, in general terms, when considered, the global commodity price figures reveal that the prices of resources have been falling by about 76% since 2008. [58] The copper trade has lost 55% value since that period. The United Nations Conference on Trade and Development (UNCTAD) argues that the "terms of trade in the primary commodity sector have been steadily declining for about 30 years."[59] The real problem lies in the fact that when the windfall comes the government over spend in the inglorious attempt to recover lost time and buy social acceptance from a disenchanted population.[60] They use the increased revenues to strengthen political and economic control and wipe out the opposition that was groomed over the crisis by making direct cash transfers to the poor population.[61]

---

53 Brooks, *supra* at 5.

54 El-Gamal M. A., *supra* (3).

55 Botchway, F. N., *Natural Resource Investment and Africa's Development*, *New Horizons in Environmental and Energy Law*, (Edward Elgar: Cheltenham, 2011), at 332.

56 Economic report on Africa: *Unlocking Africa´s Trade Potential*, (UNECA: Addis Ababa, 2004) at 32.

57 Rogoff, K. *What's behind the drop in oil prices?*, (World Economic Forum, 10 March 2016), available at https://www.weforum.org/agenda/2016/03/what-s-behind-the-drop-in-oil-prices/, last accessed 25 Oct 2017.

58 Botchway F.N., *supra* (55) at 333.

59 *Idem.*

60 *Idem.*

61 *Idem*.

2.1.2.3 Enclave and employment

On the other hand, the resource curse literature argues that countries endowed with extractive resources lack the desired capacity to transfer the revenue to productive sectors of the economy.[62] However as indicated previously, the income seeking mentality not only contributes to disinvestment in productive sectors but also to crowding out the human resources in favour of the extractive industry.[63]

Botchway argues that during the downfall periods the countries tend to withdraw from investments affecting exports and job creation capacity of the economy.[64] But also during the windfall resource rich countries tend to invest less, according to El Gamal, by relying on resource revenue. [65] The political economy of minerals discourages investment in other sectors which would secure long term growth.[66] This does not only affect the competing capacity of the country but also its ability to generate jobs considering that the extractive industry, by its virtue, cannot absorb the demand of the entire working force in the economy.[67]

Moreover, employment availability also follows the economic cycle of extractive sectors as it tends to increase during the windfalls and shrink during the crisis.[68] In spite of huge reserves, Saudi Arabia, for example, experienced a very significant level of unemployment and high rate of poverty in the 1990s. The problem was only solved in the high tide season from 2003 to 2008.[69]

62 Sachs J., Warner A.,(4) *supra* at 836.

63 Marslad L., *Does Resource Curse Affect Education? An Empirical Analysis of Oil Wealth and Public Education Spending, 1980–2006, Dissertation,* (NUPI: Trondheim, 2011), at. 16.

64 Botchway, F. N., *supra* at 331.

65 El-Gamal M. A., *supra (3)*.

66 Sachs J. *supra (4)* at 5.

67 Gelb A. H., *supra (49)* at 138.

68 El-Gamal M. A., Jaffe A.*, supra(3*) at 35.

69 *Idem*

2.2 Summary

Many resource curse scholars agree, in general, that resource abundant countries performance tend to be masked by political and economic maladies that hinder development causing them to remain behind countries with fewer resources. However evidence shows that, although few, some resource abundant countries reveal different results right after the identification of mineral reserves.

Evidence from the literature shows that, not all resource rich countries are subject to similar phenomena. Political patterns, however, tend to influence all processes in the resource rich countries. They determine the allocation of rights, the social and economic environment in which the exploitation takes place. They are key to management and distribution of resources. Also, they reveal how the political elites are open and willing to share power. This will determine the extent of the legal framework and the quality of institutions. As a result of all these factors, the system will tend to resist the international tendency to negatively influence the outcomes.

Nevertheless, the extractive sector is prone to military and international influence given its capacity to generate wealth and development through the provision of raw material. Because of that, market trends and commodity prices are highly determined by the global political appetite and will.[70] In this regard, the fate of resource rich countries cannot solely be seen through the lens of local dynamics. International politics and IFIs are strongly involved and play a pivotal role in a given jurisdiction. Thus, domestic legal frameworks often times fade out to international law and institutions. That will be dealt with in the following chapter.

[70] Botchway, F. N., *supra (55)* at 334.

CHAPTER 3:

Shaping the natural resource course through policy and equity participation

This chapter intends to ascertain the ownership structures in the extractive industry and their influence on development. In order to do this, it will draw an historical progression of different models, perceptions and worldwide trends. It will also evaluate the condition for the sustainable establishment of domestic ownership by looking to understand the financial institutions available to support projects. The risks and challenges of such an approach will be evaluated in order to determine how the so called "curse" can be changed into a development course.

3.1 Understanding the ownership structure in the extractive industry

Participating interests in the structure of extractive companies can take different forms depending on the legal framework and objectives of the host country.[1] Governments tend to decide based on which method will provide significant revenue and better control over the resources. However, in some cases this can just be a matter of fashion and international trend and influence according to the International Financial Institutions (IFIs) model.[2]

3.1.1 State Owned Companies (SOC)

State ownership[3] in a given jurisdiction can be informed by market imperfections or political strategy in relation to a certain commodity or asset.[4] The state pursues a commercial

1 *Guide to Extractive Industries Documents* – Oil & Gas, (World Bank: Washington DC, 2013), at 15.

2 James J. Hentz*, South Africa and the 'Three Level Game': Globalisation, Regionalism and Domestic Politics, (*Commonwealth & Comparative Politics*: 2008*)*, at 479.*

3 Christiansen H., *Balancing Commercial and Non Commercial Priorities of State-Owned Enterprises*, OECD Corporate Governance Working Papers, No. 6, (OECD Publishing: Paris, 2013)

4 Cuervo-Cazurra A., Inkpen A., *et al*, *Governments As Owners: State-Owned Multinational Companies*, (Journal of International Business Studies:2014) at 4.

activity by running a company or companies that hold licences in the extractive industry, undertakes research, operations and other commercial activities.[5] There are cases such as Aramco (Saudi Arabia) in which the state owns and finances 100% of shares while in other cases the company is a publicly traded enterprise with different shareholders on board. In this case state's participating interest can take any form from more than 50 percent, 50/50 or even a minor position. In general, the State can assume two positions in the extractive business, State ownership with control[6] or State shareholding without control (minority)[7] although maintaining "golden shares."[8]

A commercial organisation is considered state owned in cases where the government entity holds a major position able to directly influence and control the commercial and management policy of the extractive company. [9] In situations like this, the state as the main share-holding can have a very strong political influence, and interfere in the management and appointment of the board. On many occasions they are part of a joint venture.[10] Nowadays, State owner with Control (SOCs) hold control over 75% of the global oil production and 90% of the known reserves worldwide.[11]

---

5 *State Participation and State-Owned Enterprises Roles, Benefits and Challenges*, Reader, available at (https://resourcegovernance.org/sites/default/files/nrgi_State-Participation-and-SOEs.pdf) last accessed 28 October 2017.

6 Government have more power for decision making and direct access to proceedings (Luong and Weithal:2010)

7 Luong P.J., Weinthal E., *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States*, Cambridge Studies in Comparative Politics, (Cambridge University Press: New York, 2010), at 6

8 Bonnie Campbel, *Mining in Africa: Regulation and Development: Regulation and Development*, (Pluto Press: London, 2009) at 38.

9 Erickson M. *et al, Overview of State Ownership in the Global Minerals Industry*, Raw Material Group, (World Bank: Washington DC, 2011) at 43.

10 Contracting and regulatory issues in the oil and gas and metallic minerals industries, Transnational Companies, vol. (UNCTD:Geneva:2009), at 13.

11 Tordo S., Tracy B. Arfaa N., N*ational Oil Companies and Value Creation*, (World Bank: Washington, 2011) at xI, 61.

3.1.1.1 SOCs are everywhere and can do better

Today State commercial entities are fashionable for countries as, according to the National Resource Governance Institute (NRGI), SOCs are responsible for two thirds of government revenue in more than 45 countries.[12] State control tends to be higher in the oil and gas sector than in the mining sector given the higher value added.[13]

However they can also have positive outcomes and shape the future. SOCs also provide for capacity building as they can gather commercial and technical expertise in the sector reducing dependency on international partners. In certain circumstances, they can contribute to the company's international expansion,[14] enhanced control over the resource sector as well as a way to amass additional revenue.[15] In general terms, State-owned mineral companies are designed to act in risky business environments, helping extractive projects to take off.[16] As the EI is highly capital intensive, the State, in the developing world, happens to be in a good position to mobilize the necessary finances from the market as compared to small national private players.

It appears that state involvement in the extractive industry has been increasing over time as, according to Cazurra, in "2010, there were at least 650 SOMNCs with more than 8500 foreign affiliates, of which about 44% were from advanced economies."[17] As it can be witnessed, state involvement is not only a reality in the developing world, it can also be found in countries like Norway and Russia, for example.[18] In some countries, however, they suffer a

[12] State Owned Companies, NRGI, available at (https://resourcegovernance.org/resource-governance-index/report/state-owned-companies) last accessed 24 September 2017.

[13] Erickson M. *et al. supra (9).*

[14] Petronas, PetroChina, Petrobras and others are SOEs that are now operating in other jurisdictions.

[15] State Participation and State-Owned Enterprises Roles, Benefits and Challenges, NRGI reader March 2015, https://resourcegovernance.org/sites/default/files/nrgi_State-Participation-and-SOEs.pdf

[16] Erickson M. *et al supra(9).*

[17] Cuervo-Cazurra A., Inkpen A., *et al supra* (4) at 919–942

[18] Christiansen H., *Balancing Commercial and Non Commercial Priorities of State-Owned Enterprises*, OECD Corporate Governance Working Papers,(OECD Publishing: Paris, 2013).

very strong political influence, and interference with the management being appointed by the government. These fail to pursue commercial aims.

Another reason for state involvement and nationalisation may be the perception, by the government, that the international private companies gain more in income than what is left in the country as a result of mining activities.[19]

3.1.2 Private Ownership

Private owned companies have played an important role in the extractive industry since time immemorial. They can range from small, family owned to large, shareholding and public companies. A privately owned enterprise is a commercial entity participated in by private shareholders.[20] Although in this regard the term private company is used, in general terms, to include all commercial entities, other than state owned, it can also mean a commercial entity with a limited number of shareholders who privately own the shares as opposed to a "public company" or corporation. The latter would be a large company with a large group of shareholdings listed in the stock exchange.[21]

Business structure has a significant impact on the capacity of a given company to mobilize the needed capital for participation in the extractive industry. According to Luong and Weinthal, there are at least two forms of private ownership in the extractive industry, being private domestic ownership, in which nationals hold 50 per cent or more of the shareholding and private foreign ownership in which international companies own a majority of shares.[22]

---

19 Erickson M. *et al supra (9)* 32.

20 Lienert I., *Where Does the Public Sector End and the Private Sector Begin?*, IMF Working Paper, (Fiscal Policy Department: Washington, 2009), at 2; *Ownership structures and legal forms*, available at http://www.open.edu/openlearn/money-management/management/business-studies/different-types-business/content-section-4 (last accessed on 29 September 2017).

21 Transnational Corporations, Extractive Industries and Development, World Investment Report, (United Nations Publication), New York, 2007, at 8

22 Luong P.J., Weinthal E., *supra* (7) at 7.

3.1.2.1 Describing private entities: sizes and roles

As indicated, private entities can be small, medium or large. Although small businesses are more prone to risk taking, their ability to undertake the desired operation is limited by their lack of financial musculature.[23] In fact, as Coleman and Carlsk argue "securing adequate capital is an ongoing challenge" for many small businesses as generally they depend on own or family funding and have limited access to external borrowing. [24] Also they tend to avoid debt and their level of organization and paper work hinder access to financial products due to a lack of trust from the financial market.

In the renewable business sector, small and medium sized entities are mostly involved in artisanal and small scale mining and compound a group known as juniors.[25] Generally, the juniors are responsible for exploration for which they gather significant technical expertise and set the pace for the entire industry.[26] Due to limited capital, when the reserves are found and quantified, they are sold to mid-tiers or majors[27] for development.[28] As indicated by Diaz-Cuellar *et al* "shareholder (equity) financing is normally the only source of funding" for this group of companies. In terms of projects, juniors tend to be speculative (promotional), they serve as intermediates; they tend to be very specialized, lack administrative skills, are undercapitalized and are risk takers.[29]

---

[23] Cameron P. D., Stanley M.C., *Oil, Gas and Mining: A Source Book for understanding the Extractive Industries,* (World Bank Group: Washington, 2017), at 50.

[24] Coleman S., Carsky M., *Sources of Capital for Small Family Owned Businesses: Evidence from the National Survey of Small Business Finances,* (Family Firm Institute: Ottawa, 1999) , at 73.

[25] In oil and gas juniors are those with a production up to 10.000 barrel per day while in the mining juniors are considered to be those with up to $500,000 assets (R.L. Mansell, *et al* :201).

[26] Mansell R.L, *et al*, *Size, Role And Performance In The Oil And Gas Sector*, The School of Public Policy, (University of Calgary, vol. 5, issue 23, 2012, at 2

[27] Large corporations, normally transnational companies operating in the extractives

[28 28] Luong P.J., Weinthal E., *supra (7)* at 6

[29] Vladimir D., Francescone K. *Canadian Mining Interests in Bolivia, 1985-2015: Trajectories of Failures, Successes, and Violence*. Latin American Policy:2016 at 225

However, another group of juniors tend to be more ambitious as they also get involved in the production after acquiring the necessary licences. Juniors play an important role in the industry production chain as:

"Junior companies find new ore bodies and sell them on to the larger companies. Intermediates offer growth potential through merger among themselves or by being taken over by the largest corporations. Miners feed product to smelters and refiners, who in turn provide metals or mineral products to fabricators, and so on. Thus, in this sense, the industry is highly interdependent, both along the product supply chain and across different mineral groups."[30]

According to United Nations Development Program (UNDP) there are close to 2000 mining junior companies operating globally or domestically. From these more than 50% are in Canada with the other significant number also being in developed countries. Junior companies have assets that range from $500 million to $ 1 billion and are considered to be the main actors in the industry.[31]

Another group of players in the extractive business is comprised of the intermediates.[32] These are middle-sized companies that operate in the mining sector holding assets that range between $1 to $3 billion. Estimates from the literature show that there are over 350 intermediate companies in the mining sector.[33]

When it comes to majors only 150 companies (about 40 in mining) are identified worldwide.[34] They tend to be global operators with assets valued from $3 to over $10 billion. It is in this group that the major companies that dominate the sector are found. In the oil and gas industry, there are six big companies that dominate the sector worldwide.[35] These include

30 Nkosi D. *et al* , *Breaking New Ground*, The Report of the Mining, Minerals and Sustainable Development Project, (MMSD, Earthscan: London, 2002), at 60.

31 *Framework for Harnessing the Extractive Industries for Inclusive Growth and Development in Nigeria*, (UNDP: Abuja, 2014) at 15.

32 Oil and gas intermediates produce between 10.001 and 100.000 bd (*Idem* at 62)

33 *UNDP:*2014, *supra (31)* at 15.

34 Some of these are considered super majors. The majors in oil produce more than 100.000 bd (Nkosi:2002 at 61)

35 Cameron P. D., Stanley M.C., *supra (23)* at 48.

Exxon Mobile, BP, Shell, Chevron, ConocoPhillips and Total.[36] Royal Dutch/Shell, for example, explores for oil in 50 countries, refines in 34, and markets in more than 100 countries.[37] In fact, these companies have dominated the extractive industry for many decades even a century. [38]

Majors grow by mergers and acquisitions and have capacity to stay in business overcoming any market challenge. They also enjoy strong political support from their respective governments given their capacity to supply oil for the nation as well as for their ability to support the domestic economy through taxes, investment and employment.[39] The need for cheap resources and control over reserves and markets cause extractive companies to go international. Anglo American, BHP Billiton, Rio Tinto, Vedanta, and Glencor are the super majors in the mining side.[40] Differently from the juniors, majors tend to get involved in all areas of operations.

In 2012 the Revenue Watch Institute analysed the Global Stock Exchange and recorded that there are almost 7472 extractive companies listed on the major stock exchanges worldwide.[41] According to their findings, the combined value of the extractive companies listed on the 35 world largest stock exchanges is over $10 trillion.[42] At the time around 100 mining, oil and gas companies were listed on the London Stock Exchange (LSE) with a total value of 519 billion in 2011. But, while the LSE is where the larger extractive companies are listed, the number and amount involved, “presents only a small share of the global industry”, as indicated by Revenue Watch.

---

[36] Herold’s Financial dictionary, available at (https://www.financial-dictionary.info/terms/big-oil-super-majors/) last accessed 30 September 2017.

[37] Greer J., Singh K. *Brief history of transnational corporations,* available at *(*https://www.globalpolicy.org/empire/47068-a-brief-history-of-transnational-corporations.html), last accessed 02 October 2017.

[38] Banks G., Activities of TNCs in extractive industries in Asia and the Pacific: implications for development, *Transnational Corporations*, **(**UNCTD: Geneva, 2009) at 44-45.

[39] *Idem.*

[40] Cameron, *supra (23)* at 49.

[41] Voorhees, D., *Extractive Sector Companies Listed on Global Stock Exchanges*, (Revenue Watch Institute: New York, 2012) , available at (https://resourcegovernance.org/sites/default/files/GlobalCalculatorAug12.pdf) last accessed 02 October 2017

[42] Stevens P., *et al*, *Conflict and Coexistence in the Extractive Industries*, Chatham House Report (The Royal Institute of International Affairs: London, 2013), at 6.

3.1.2.2. Accessing the destination of the money

Private companies spend more on consumable, capital goods and services than what is paid to the government as the example from BHP Billiton reveals. In 2010, alone, BHP Billiton's operating costs in Africa were calculated at about $3.6 billion, with payments to local government ranging to a mere $598 million.[43] The majors also enjoy a very favourable treatment from the financial markets and have large amounts of financial reserves in their coffers for new venture investment and to serve as a buffer in hard times.

PricewaterhouseCoopers, as indicated by Stevens, report that the world's 40 largest mining companies, for example, saw more than a fivefold increase in revenues between 2002 and 2012.[44] Their net profits rose more than tenfold, from $6 billion to more than $80 billion per annum. During the metal price spike in 2010–11, profits even jumped to $132 billion in a year.[45]

3.1.3 Extractive industry over time: an historical overview

Extractive industries, in the world and in Africa, are an ancient[46] activity with involvement of indigenous small-scale operators regulated by customary and traditional law using very rudimentary technology[47] From the 9th century, commercial activities, with the

---

43 Sigam, C., Iddrissu, D. 2013. *Extractive industries, related benefits and financial intermediation in Africa. GREAT Insights*, volume 2, Issue 2. February-March 2013. Maastricht: ECDPM available at (http://ecdpm.org/great-insights/growth-to-transformation-role-extractive-sector/extractive-industries-related-benefits-financial-intermediation-africa/) last accessed 02 October 2017.

44 Stevens P., *et al*, *Idem* at 5.

45 *Idem.*

46 Mining was conducted in prehistoric times all over the world. Gold mining for example is dated to 5000 years BCE. Flint, coal, iron ore, copper and gold are some of the most ancient mineral products. The oldest known underground mine in the world is a 43,000 years old, "Lion Cave", in Swaziland. Available at (https://www.britannica.com/technology/mining) last accessed 2 October 2017

47 Botchway, F. N., *Natural Resource Investment and Africa's Development; New Horizons in Environmental and Energy Law*, (Edward Elgar: Cheltenham, 2011), at 2.

Arabs, contributed to the intensification of mining activities and commercialization of minerals. As of the 13th century, European traders and explorers sailed to Sub-Saharan Africa mainly for gold but soon imperialists established themselves in the continent and divided the territory between them.[48] Companies financed by western governments ran to the continent and invested in diamonds, gold, copper and other natural resources. The companies assumed administrative roles and in some situations, they were responsible for vast territories for long periods.[49]

With the arrival of the western explorers, the extractive activity, mostly mining at the time, intensified. A small mine using an elementary shaft, for example, was reported to have produced more than 400,000 ounces of gold in Mashonaland while South Rhodesia yielded 34,709,299 ounces of gold during 1890 to 1959.[50]

The twentieth century was dominated by the European empires. International traders were protected by the laws of their home country. In fact, as Botchway writes, "no States could invoke national law to expropriate or nationalise assets of foreign investors".[51] The colonial authorities reserved the best productive areas for the metropolitan interests.[52]

At the time, the five leading oil majors accounted for over 40 per cent of the industry's global market share.[53] State ownership, however, became a general trend among the western countries in Europe. Colonization, independence and development have always been the main issues linked to renewable resources at any given time in history and continue to influence policies and lives.

---

[48] Darimani A., *An Alternative Investment Framework for Africa's Extractive Sector: A Perspective from Civil Society, (Third Word Network-Africa: Ottawa, 2009), at 2-3.*

[49] Likosky M., Contracting and Regulatory Issues in the Oil and Gas an Metallic Minerals, Transnational Corporations, (UNECA: Addis Ababa, 2009), at 3.

[50] Botchway, F. N., *supra* (47) at 2.

[51] *Idem* 2, 294.

[52] *Idem* at 2.

[53] Greer J., Singh K., *Brief History of Transnational Corporations*, available at (https://www.globalpolicy.org/empire/47068-a-brief-history-of-transnational-corporations.html) last accessed 27 October 2017.

3.1.3.1 The period after colonization

In this period there was much change in the way of doing business and the applicable law for international investment. Again, because of the bipolarized economic order, informed by the cold war, a number of developing countries lined with the communist block adopting state ownership as the dominant model. [54]

Major changes were witnessed in the period from 1960 to 1990 commencing with decolonization in many developing countries. As a result, new states reclaimed the management of their natural resources in order to guarantee fully economic and political independence.[55] Nationalization and expropriations took place both in the developed and developing world. According to the United Nations Conference on Trade And Development (UNCTAD), over 80 expropriations of extractive companies were made between 1960 and 1976[56] and that tendency continued towards the 1980s when close to 50 % of all base metals were produced by state owned companies. [57]

Nevertheless, in 1970 the majority of oil production was conducted by private companies,[58] while state dominance continued to grow as the result of communist block influence over new born states. It was during this period that the south fought for the establishment of the new economic order and defended the development of fair foreign

[54] The first NOC to be formed was Yacimientos Proliferos Fiscales in Argentina in 1922 followed by Petroleos Mexicanos – Pemex – 1938 (Cameron:2017)..

[55] Blanco E., Razzaque J., *Globalisation and Natural Resources Law : Challenges, Key Issues and Perspectives*; (Edward Elgar: Cheltenham, 2011) at 42.

[56] Zhan. J. X. *et al*, Investment *and Digital Economy*, World Investment Report, (UNCTAD: Geneva, 2017), (UNCTAD, 2007), at 108.

[57] Ericsson M., Löf F., *Overview of the State Ownership in the Global Mineral industry: Long Term, Trend and Future*, Extractive Industry Development Series, (World Bank: Washington, 2011), at 4.

[58] NRGI, *supra.*

investment regulation that favoured the developing countries[59]. The third world New International Economic Order (NIEO) proposal demanded that:

> *Once "affirmed the full permanent sovereignty of every state to its natural resources (…)each State can exercise effective control over and exploitation of its resources with means suitable to its particular situation including the right to nationalization or transfer of ownership to its nationals."*[60]

Obviously, this demand was rejected by western governments and business.

Another major shift occurred from 1990 to 2005 as this period was characterized by a number of policy and legal transformations informed by Structural Adjustment Reforms with significant emphasis on foreign investment and the natural resources industry.[61] Developing countries embarked heavily on issues of privatization in obedience to IMF and World Bank advice. About 40 African Countries revised their mining legislation between 1990 and 2010 but these reforms were not enough to attract investors.[62]

Alongside the reforms, metal prices declined obliging a number of countries to privatize the extractive industry.[63] Developing countries became more receptive to FDI, which at the time, was shrinking. International investors and multilateral financial institutions became more demanding and pushing the south to open and undertake a number of legal and economic reforms.

It was also in the same period that a number of self-governing voluntary principles were introduced in the interest of allowing the industry to better deliver the intended results to developing nations. These mechanisms include United Nations Global Compact, Equator Principles, Kimberley Process, Extractive Industry Transparency Initiative (EITI) and John Ruge Principles on Business and Human Rights.

---

[59] Botchway, F. N., *supra (47)* at 300.

[60] Article 4 of the NIEO.

[61] Botchway, F. N., *supra (47)* at 305.

[62] Besada B., Martin P., *Mining Codes in Africa: Emergence of a "Fourth" Generation?*, (The North South Institute, 2013) at 1,4.

[63] Ericsson M., *supra* (9) at 4.

Desperate for investment in order to exploit their natural resources, as more reserves were identified, developing countries signed Bilateral Investment Treaties (BITs). [64] However, the proliferation of BITs was not able to increase FDI flow as intended.[65] In 2014 Africa received only 4.4% of the global FDI.[66] Instead, BITs contributed to reduce state sovereignty in some way given that a number of cases at international arbitration augmented on the period. According to UNECA, African countries have been involved in 111 dispute cases from 1972 to 2014 and "in virtually all reported cases the claimant have been a company invoking a violation of BIT."[67]

3.1.2.2 Current ownership trends in sub-Saharan Africa

As a mere indication that the privatization wave that took place earlier did not produce the intended results, in more recent years, another wave of nationalization exploded. National debates on indigenization, nationalization and resource nationalization started to entertain the political discourse in many resource rich countries. Some, like Zimbabwe, Zambia and Venezuela, took "bold" steps by materializing it, thus, causing general dissatisfaction in the extractive industry.[68] In other countries, like South Africa, populism created uncertainty in the sector causing investment to shrink. [69] The feeling behind this was that the EI business mechanism in place was not providing enough resources for development. But, it might also result from the suspicion that the contracts in place were secretly negotiated with previous governments in disfavour of the common good thus advocating for termination or, at least renegotiation.

---

[64] There are 854 BITs in Africa from a total of 2,894 BIT worldwide - *Investment Policy and Bilateral Investment Treaties in Africa: Implications for Regional Integration*, (UNECA:2016 at 16).

[65] In 2014 FDI to Africa was only $54 billion almost equalling what the continent lost, on the same year as a result of mispricing of natural resources (UNECA:2016 at 3).

[66] In 2014 FDI to Africa was only $54 billion almost equalling what the continent lost, on the same year as a result of mispricing of natural resources (UNECA:2016 *supra* at 3)

[67] UNECA *supra* 2016 at 24.

[68] Limpitla D., *Nationalization and Mining: Lessons from Zambia, (The Journal of The Southern African Institute of Mining and Metallurgy: Lusaka, 2011), at 783*

[69] S. du Plessis, *Nationalizing South African mines: an enonomic assessment, (The Journal of The Southern African Institute of Mining and Metallurgy:2013), at 37.,*

Today, state ownership and foreign ownership are the most common structures in many resource rich countries in Sub Saharan Africa. In fact, international companies have been involved in almost every stage in all resource rich countries since the very beginning and continue to push through using, in many cases, subsidiaries. Of more than 57 companies involved in exploration in 1995 in Bolivia, none were domestic as they were from Canada (28), USA (12), Australia (10) and other western countries where they are also listed on the stock exchange.[70] International law and institutions have much influence on how extractives are exploited, traded and contribute to development in resource rich countries. Some call it neo-colonialism and others economic liberalism.[71]

3.2 Summary

Understanding the ownership structure and the historical aspects of the extractive industry appears important as they influence the institutional setting and fiscal regime that a state will choose to follow.[72] Findings in this chapter suggest that the ownership structure in the extractive industry is composed by two main entities, namely, the State Owned Companies and the Transnational Private Ownership. Accordingly, Private Ownership are more powerful, they have different sizes and roles which overshadows the State Owned Companies and influence.

History shows that changing the scenario does not operate in a vacuum. It requires well thought and planned strategy supported by strong legislation and institutions.[73] In fact, whatever comes to be considered as part of the resource curse is at the end, the result of "a weak rule of law."[74]

---

70 Dıaz-Cuellar V., Francescone K., *supra* at 226.

71 *James J. Hentz, South Africa and the 'Three Level Game': Globalization, Regionalism and Domestic Politics, (Commonwealth & Comparative Politics:2008), at 479;* Fraser A. and Larmer M., *Zambia, Mining, and Neoliberalism Boom and Bust on the Globalized Copperbelt,* (Palgrave Macmillan:New: New York), at 211.

72 Luong *supra* at 45.

73 Luong P. J, Weinthal E., *supra* (7) at 9

74 Ross M. L., *How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases*, (International Organization:2004), at 38.

After addressing the question on the structure of the extractive industry, its significance and implications, the following chapter discusses particular examples of resource rich countries in order to build an evidence case to support the arguments made so far.

CHAPTER 4:

Same walk two destinations: addressing the differences in resource rich countries

This chapter looks into the reality of two sub-Saharan Africa countries in order to evaluate their institutional resource management mechanisms and compare the results. The chapter considers the history, economics, politics and stake holding ownership in these two countries, seeking to understand the ways natural resources benefit the economy and promote development.

4.1 The case of Nigeria

With a population of over 160 million, Nigeria is the most populated country in Africa.[1] It has an expressive extractive sector dominated by refineries although there are reports of about 34 different solid minerals occurrence in 500 locations all over the country.[2] According to the Federal Government, besides oil and gas, there are seven minerals that are considered to be key to development, namely, coal, iron ore, tin, manganese, lead-zinc, gold and barite. [3] Coal, columbite and tin were important commodities in the 1940s before they were replaced by oil and gas in 1958 when the first well was opened in Nigeria. [4] Since then oil production has been growing and has been dominating the economy from the 1980s.[5]

1 The most Populated Countries in Africa, World Facts, World Atlas, available at (http://www.worldatlas.com/articles/the-most-populated-countries-in-africa.html) , last accessed on 17 Oct 2017.

2 Cornish L., *Nigeria should definitely be on your investment radar! Mining Review Africa*, 26 Sept 2017, available at (https://www.miningreview.com/features/nigeria-definitely-investment-radar/), last accessed on 17 Oct 2017.

3 *Road Map for the Growth and Development of the Nigerian Mining Industry*, (Ministry of Budget and National Planning: Abuja, 2016), at 18-19.

4 Framework for Harnessing the Extractive Industries for Inclusive Growth and Development in Nigeria, (UNDP: 2014) at 2.

5 Increasing Local Multi-stakeholder Participation Will Move the Extractive Industries Forward, This Day, 14 July 2017 available at (https://www.thisdaylive.com/index.php/2017/07/14/increasing-local-multi-stakeholder-participation-will-move-the-extractive-industries-forward/) last accessed 17 Oct 2017.

The Nigerian political, social and economic environment depicts a very clear image of the “resource curse” syndrome as characterized in the literature.[6] The scenario in Nigeria, as history shows, includes never ending conflicts, exacerbated corruption, a high level of poverty and famine, an economic rent seeking mentality, and high unemployment as well as enclave economy effects, just to mention some of the issues arising.[7]

4.1.1 The extractive industry

Since its independence in 1960, Nigeria has been striving to find its way out of poverty and dependency. In fact when oil and gas was discovered in the 1950’s people believed they had found the answer to underdevelopment. At the time, the poverty level was at 15%, it grew to 28% in 1980 then to 43% in the 1990s and again to 64% in 2017.[8] According to the World Bank, the number of people in extreme poverty increased by 35 million in Nigeria between 1990, when 51 million people were living with less than $2/day, and 2013 when that number was calculated at 86 million people.[9]

Nigeria, according to the economic data, experienced a very troubled growth since its independence when the annual GDP was calculated at 0.2%. After a long period of ups and downs, negatives and positives the Nigerian GDP in 2004 was at 33.7%. The most difficult years were 1967 (-15.7%), 1978 (-5.8%), 1981 (-13.1%), (-10.8%) in 1987 and again last year, 2016, the Nigerian GDP was calculated at -1.5%.[10]

---

6 See Chapter 2.

7 UNDP *supra (4)* at 2.

8 World Bank Group, *World Development Report 2017 : Governance and the Law*, Washington, DC: World Bank, 2017, available at https://openknowledge.worldbank.org/handle/10986/25880 License: CC BY 3.0 IGO, last accessed 17 October 2017.

9 *The 2017 Atlas of Sustainable Development Goals: a new visual guide to data and development*, World Bank) available (http://blogs.worldbank.org/opendata/2017-atlas-sustainable-development-goals-new-visual-guide-data-and-development) last accessed 17 Oct 2017.

10 *GDP by Country Statistics from the World Bank, 1960-2016* , available at (http://nigeria.opendataforafrica.org/mhrzolg/gdp-by-country-statistics-from-the-world-bank-1960-2016) last accessed 17 October 2017.

In terms of stake holding participation, the Nigerian extractive industry experienced different scenarios. The oil and gas sector has been dominated by major transnational companies since its infancy. In 1977 the Nigerian State established the Nigerian National Petroleum Corporation (NNPC) with interests in the areas of exploration and production, gas development, refining, distribution, petrochemicals, engineering and commercial investments. The NNPC has 11 subsidiaries, runs 4 refineries[11] and has 6 joint operations with multinational companies.[12] A corporate service unit within the NNPC takes responsibility for management of Government investments in oil and gas.

Until the mid-1990s no domestic private company had managed to enter the sector and no oil company was listed on the Nigerian Stock Exchange (NSE). Today from the total of 180 companies listed on the NSE, 12 are from oil and gas and four from general natural resources.[13] Total Nigeria is the sole multinational subsidiary listed on the NSE. Oando, the largest and oldest domestic oil company in Nigeria, only came into existence in the 1990s.[14] Today, it is considered the first to be listed on two stock exchanges across Africa, the NSE and Johannesburg Stock Exchange (JSE). The other major domestic player, Seplat Petroleum Development Company was founded in 2009 and commenced operations in 2010. It is listed on both the NSE and London Stock Exchange (LSE).[15]

The majority of the 16 EI companies listed on the Nigerian Stock exchange were formed after 2010 as a result of the government local business initiative.[16] The process was

---

[11] The four refineries in Nigeria operate at only 20% of their capacity.

[12] NNPC holds 60% participation in Chevron Nigeria Limited (CNL), Mobil Producing Nigeria Unlimited (MPNU), Nigerian Agip Oil Company Limited (NAOC), Total E & P Nigeria Limited (TEPNL) and Texaco Overseas Petroleum Company of Nigeria Unlimited (TOPCON) but holds 55% in Shell Petroleum Development Company of Nigeria Limited (SPDC). (http://www.nnpcgroup.com/NNPCBusiness/UpstreamVentures.aspx)

[13] The Nigerian Stock Exchange, listed companies available on http://www.nse.com.ng/Listings-site/listed-securities/listed-companies) last accessed on 12 October 2017.

[14] The company was stablished in 1956 as subsidiary of Exxon USA. It was then known as Esso West Africa incorporated changing. In 1976 the Nigerian government became sole owner after buying interests. Changed the name to Unipetrol Nigeria Ltd, in 1991 became public listed company and entered NSE in 1992. In 2002 after a number of acquisitions the company was rebranded to Oando, available on (http://www.oandoplc.com/about-us/our-journey/) last accessed 12 Oct 2017.

[15] *The only Nigerian company fully listed on the Nigerian Stock Exchange and London Stock Exchange available on (* https://seplatpetroleum.com/about-us/at-a-glance/) last accessed on12 October 201)

[16] *Nigeria: Local participation in the oil sector is growing*, (The Economist Intelligence Unit, 12 Nov 2013), available (athttp://www.eiu.com/industry/article/341161618/nigeria-local-participation-in-the-oil-sector-is-growing/2013-11-12), last accessed 23 October 2017.

also facilitated by multinational divestment from the marginal and conflict areas onshore. However, the new wave of domestic investment crowded the country concentrating in the Niger Delta area and gradually into other locations.[17] Few were able to take off given two reasons: weak financial capacity and the oil price fall just after the projects were awarded. As the Economist Intelligence Unit indicates:

> "Of the 24 fields awarded to 31 indigenous companies in 2003 under the Marginal Fields Development Programme, only eight are now in full production. Of the 77 blocks issued between 2005 and 2007, of which indigenous companies claimed 65% according to the Department of Petroleum Resources, only one is currently in production and less than 30% are seeing active work."[18]

Before the current wave of extractive domestication, in 1972 the Nigerian Government issued a decree on indigenization leading to the nationalization of the extractive industry.[19] As a result, international investors departed causing production to fall in the mining sector. In order to maintain production the government created the Nigerian Mining Corporation, and its subsidiaries.[20] Nevertheless, the mining activities sector remained underdeveloped as the government was unable to operate in an efficient way. Artisanal and small mining activities took place but with little impact as the economy failed to support them.[21]

Government underfunding and the limitations of the Nigerian financial system are seen as the major challenges for the upcoming elite of the domestic petro business and mining. According to a Central Bank directive, only 20% of the commercial banks loan

---

17 *Idem.*

18 *Idem.*

19 Decree, 4; Nigeria Enterprise Decree 1972, February 1972. Although it did not target the Extractive Industry directly the decree advocated for the sole Nigerian Citizen Ownership for construction companies, services, equipment distribution, service and maintenance.

20 UNDP *supra* (4) at12.

21 *Idem* at 13.

portfolio can be allocated to oil and gas projects.[22] In 2014, Nigerian banks are said to have provided more than $20billion to oil and gas companies, mostly to local businesses.[23] However, high interest rates are seen as inhibitors for the growth of domestic private investors in the EI.

Recently, in an attempt to revive the mining sector, the government, through the newly created Ministry of Mining and Steel Development, launched a $5 billion program which, among other things, advocates for 100% private ownership in mining. The program together with the newly enacted mining regulations provides up to five years tax holidays and has reduced corporate income tax to 20-30% in an attempt to win back international investors and broaden the revenue base.[24] The Government launched a new Economic Recovery and Growth Plan with a strong incidence on extractives.[25] However, challenges remain in both the political and economic realms.

4.1.2 Politics and democracy

Nigeria has been a democracy since its independence and the Constitution provided for a parliamentary government. The first multiparty elections were run in 1959 for the parliament and in 1963 for the federal government.[26] However, soon, ethnic divisions and disputes disrupted the long walk. From 1966 to 1999 a number of bloody coups and a civil war that killed about 4 million, took place. Military governments were in control for about 30 years.[27] From independence to 1993 Nigeria had more than 10 coups and in 50 years the country has known 16 rulers including military juntas and civilian presidents. Olusengun

---

22 Akinyanmi O., *How Local Companies are Wining in Nigeria, The Oil and Gas Year*, (29 May 2015) available at (http://www.theoilandgasyear.com/articles/how-local-companies-are-winning-in-nigeria/), last accessed 25 October 2017.

23 Raval A., Nigerian oil companies hit hardest by funding crisis, (27 November 2016) available on https://www.ft.com/content/56793724-923c-11e6-a72e-b428cb934b78) last accessed 25 October 2017.

24 Sections 23 to 30, Nigerian Minerals and Mining Act 2007.

25 Economic Recovery & Growth Plan 2017-2020, Ministry of Planning and Budget, 2017 available at https://estateintel.com/wp-content/uploads/2017/03/Nigeria-Economic-Refom-Plan-2.pdf, last accessed 25 Oct 2017.

26 Falola T., Heaton M. M., *A History of Nigeria:The Nobel People in the Nigerian History*, (Cambridge University Press 978-0-521-86294-3 at xvi.

27 Odeyemi, J. O., A Political History of Nigeria and the Crisis of Ethnicity in Nation-Building, (*International Journal of Developing Societies*, 2014), at 1.

Obasanjo who stayed in power as military leader from 1975 to 1979 was elected in multiparty elections held in 1999 breaking the cycle of political uncertainty.[28] Although the country is currently experiencing some of its political peaceful days, insecurity still surrounds the oil industry.[29] The World Bank considers that violence is one of the main constraints for the development of Nigeria, as it is for another 37 countries around the world.[30]

In Nigeria, and other parts of Africa, to paraphrase Rafiu et al, it was the colonial past that enabled a political environment which "is a theatre of violence, conflict and war for primitive accumulation through the power process."[31] Nevertheless, it was also the choices made and institutions put in place right after independence that exacerbated the tensions. A conflictual environment caused by ethnic, religious and economic discord has been of a very high cost for Nigeria, Nigerians and in turn for the extractive industries.

4.1.3 Corruption levels

According to the Nigerian Extractive Industry Transparency Initiative (NEITI), the country lost over $11 billion to pipeline vandalism between 2009 and 2011. Sabotage and theft are considered to be the cause of the loss of more than 136 million barrels of crude oil, calculated at $10.9 billion within the period under review.[32] Military regimes and paternalism created a culture of secrecy, a lack of transparency and corruption.

Corruption is a monumental phenomenon in Nigeria.[33] It is estimated that over $400 billion of the country's oil and gas money has been stolen or misspent in the period from

---

[28] Falola T. and Heaton M. M., *supra* at xxix.

[29] Gboyega A., Søreide T., Minh Le T, Shukla G. P., *The Political Economy of the Petroleum Sector in Nigeria, (World Bank: Washington DC, 2011) at 21.*

[30] *World Development Report 2017: Governance and the Law. (*World Bank: Washington DC, 2017) at 44.

[31] Rafiu O., Owolabi A., Folasayo S. N., *The Nigerian state, political assassination and democratic consolidation: A historical exploration*, (Obafemi Awolowo University Ile-Ife: Osun State, 2009) at 156.

[32] NEITI Audit Report (2009-2011).

[33] *Okek V.O.S, Aniche, E. T., A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative (Neiti) Act 2007 in Nigerian Oil and Gas Sector*, (British Journal of Arts and Social Sciences, 2013*) at 99.*

1960 to 2005.[34] This amount is equivalent to the 2016 Gross Domestic Product (GDP) of Nigeria which was calculated to be $405.10 billion.[35] Even after returning to peace and civil government the country continues to suffer from endemic corruption as about "80% of the total revenue from oil and gas" ends up in private hands.[36] Human Rights Watch indicated that during President Obasanjo's government, about $4 to $8 billion annually have been lost to corruption in Nigeria.[37] On average, Nigeria has ranked 2.5 on the Corruption index, 25% transparent and 75% corrupt over the past 5 years according to Transparency International (TI).[38]

In 2007 Nigeria enacted legislation creating the Nigerian Extractive Industries Transparency Initiative (NEITI), however critiques consider that little has changed since then and that tracking payments continues to be a challenge.[39] NEITI is the Nigerian local arm for the Extractive Industry Initiative (EITI) a global voluntary mechanism for tracking extractive companies' payments to government as well as the executive distribution of such revenue.[40] According to the NEITI, it is possible to follow how revenue from oil and gas was distributed from the federal, state and provincial governments but not what happened at the lower government levels where investment in concrete projects should be taking place. Corruption is also fuelled by multinationals operating in Nigeria. In 2011, for example, reports indicated that Shell and Eni paid $1.1 billion to Nigerian officials to gain access to an oil block in one of West Africa's largest oil fields.[41]

---

34 Adegoke K.S, *Assessment Of The Nigeria Extractive Industries Transparency Initiative (Neiti) In Curbing Corruption In The Nigerian Extractive Industry*, (Ahmadu Bello University: Zaria, 2015) at 2.

35 Nigeria, Trading economics, available at (https://tradingeconomics.com/nigeria/gdp), last accessed 29 October.

36 Mohamed U. *Corruption In Nigeria: A Challenge To Sustainable Development In The Fourth Republic, (*European Scientific Journal: 2013*) at 124*

37 *Idem.*

38 Corruption Perception Index 2016, available at (https://www.transparency.org/news/feature/corruption_perceptions_index_2016#table) , last accessed 27 October 2017.

39 Barr.Okeke, Aniche*, E. T., A critique of the Enforcement of the Nigeria Extrative Industry Transparency* Initiatiative *(NEITI) Act 2007 in Nigerian Oil and Gas Sector (*British Journal of Arts and Social Science:2013) *at 99.*

40 *NEITI, Oil and Gas Industry Full Audit Report*, (NEITI: Abuja, 2014), at 12-13.

41 Gaita H., *Shell scandal shows why transparency for oil, gas & mining is vital*, Global Witness, Transparency International, 11 April 2017, available on (https://transparency.eu/shell-knew/) last accessed on 20 Oct 2017.

4.1.4 Legal Frame work

Nigeria has known 5 different constitutions since its independence in 1960 (Westminster system), followed by a Republican system in 1963, then 1979, 1993 and finally in 1999 which was emended in 2011.[42] Interestingly all protected property rights baring compulsory removal of private, movable or immovable property.[43] In case such removal would occur, in accordance with the law as provided in the relevant legislation, the owner would be entitled to compensation.[44]

In 1972 Nigeria enacted a decree which only allowed the nationals to run business in all most all areas. Although it did not mention directly the extractive industry it indicated that areas such as machinery sales, maintenance services, construction, distribution and others were reserved for nationals.[45] However, until 1990 Nigeria was still using the 1968 company act. The 1990 Act was repealed in 1998 and this law was replaced in 2004. providing the right to be fairly compensated.

The first national company law was promulgated in 1912 based on the United Kingdom Company Act of 1908. Before that the companies that operated in Nigeria were governed by their counties law.

According to the company act of 1968, private companies would be those with a maximum of fifty shareholders who were denied the liberty to transfer their shares as well as to offer them publicly.[46] The Company and Allied Matters Act of 2004 regulate aspects of incorporation, formation, management of companies in Nigeria.[47]

On the extractive side Nigeria has had 3 codes one before the act of 1999 which was repealed by the Nigerian Minerals and Mining Act, 2007. Nothing is mentioned about state participation in any mining project in the act. The Petroleum act, however, has been in place

---

42 Okereka, O.P., *Evolution Of Constitutional Government In Nigeria: Its Implementation National Cohesion,* (Global Journal of Political Science and Administration:2015) at 4-5.
43 Section 30 (1), The Constitution of 1963; 40 (1) The Constitution of Nigeria, 1979; 44 (1) The Constitution of Nigeria 1999.
44 *Idem*, Section 30 (1) (a) -1963; 40 (1) (a) – 1979; 44 (1) (a) 1999.
45 Decree # 4, Nigeria Enterprise Decree 1972, February 1972
46 Section 13, Nigerian Company Act 1968.
47 Section 19 and following, Company and Alliens Matters Act, 2004.

since 1969 and it was amended several times including in 2004.[48] The country has signed 31 Bilateral Investment Treats, 10 multilateral International Treats with Investment Provisions (TIPs) and 21 other Investment related instruments such as GATTS, TRIMs, ICSID, Doha Declaration and more.[49]

4.2 The case of Botswana

Botswana is one of the fastest growing countries in Africa.[50] Coming from a very depressed situation at its independence in 1966, it was among the poorest countries[51] and had a small population of less than 2 million. Today, however, it is considered to be a middle income country with 19.4% poverty.[52]

Endowed with a significant amount of minerals, Botswana is the second world leading producer of diamonds and counts with it an important production of nickel and copper. Moreover, unlike the majority of the resource rich countries, Botswana has experienced rapid growth, ranks well when it comes to the corruption index and "public finances are strong, debt is minimal, and the country enjoys good investment-grade credit ratings."[53] Overall, mining projects account for 40 percent GDP in Botswana with over 25 diamond projects, 14 coal, an equal number of uranium projects,7 copper projects and a few in gold and other minerals.[54]

In Botswana, diamonds were discovered in 1967 and, today, they are the main commodity of the country. The first diamond project, Orapa, was launched in 1971 by De

48 Nigeria Petroleum Act, 2004 (as amended).

49 International Investment Agreements Navigator *Nigearia BITs*, UNCTD available at (http://investmentpolicyhub.unctad.org/IIA/CountryBits/153), last accessed 29 October 2017.

50 Maipose G. S., *Institutional Dynamics of Sustained Rapid Economic Growth with Limited Impact on Poverty Reduction, (*United Nations Research Institute For Social Development: Geneva, 2008) at 2.

51 Mwakikagile G, Botswana since independence, (New Africa Press: Pretoria, 2009) at 20.

52 *Africa Economic Outlook 2012, Botwana*, (Africa Development Bank: Addis Ababa, 2012) at 2.

53 Jefferis K., The role of TNCs in the extractive industry of Botswana, Transnational Corporations, (UNCTAD: New York, 2009) at 61.

54 *Africa Mining, Mining in Botswana: An overview,* available at https://www.projectsiq.co.za/mining-in-botswana.htm accessed on 25 Oct 2017.

Beers with the government deciding to hold a 15% stake at that time. Since then, more diamonds were discovered and production resumed. The government increased its participation to 50% in 1975 and took greater stakes in other projects.[55]

Moreover, minerals have created a huge impact in Botswana. As a result, Botswana per capita income jumped from $76 in 1966 to $6,500 in 2008 while exports moved from a mere $15 million to $4.4 billion during the same period owing to natural resources which account for 90% of the total exports.[56] Diamonds produced in Botswana are calculated at $3.3 billion a year and they are responsible for about 60% of the total government revenue. [57]

4.2.1 The extractive industry

The business environment in the Botswana extractive industry is characterised by the participation of three different groups. On one side are the transnational companies and on the other, the State Owned and domestic private businesses. The South African DeBeers and Anglo American companies are the main investors in the diamond sector. As per law the government can acquire a shareholding position that ranges from 15% in any mineral[58] and a negotiated stake in diamonds.[59] Private sector development has been intentional as, according to Jefferis, the Government of Botswana has "taken a long-term view, promoting private-sector investment in the mining sector, and ensuring that it is itself well-resourced when entering into negotiations with mining TNCs."[60]

In its endeavours to groom the private sector, the government of Botswana introduced, in 1982, the Financial Assistance Policy (FAP)[61] which after terminating in 2000 given numerous abuses, was substituted, in the following year by the Citizen

---

55 Jefferis K., *supra (53) at* 66.

56 UNECA, Botswana, Country Profile, (UNECA: Addis Ababa, 2015) at 11.

57 *Approximately $8.5 billion worth diamonds a year come from African countries,* available on *(*http://www.diamondfacts.org/index.php?option=com_content&view=article&id=107&Itemid=150&lang=en last) accessed 12 October 2017.

58 Section 40 (1)(a), Part VI, Botswana Mining Law 1999

59 Section 51, Part VI, Botswana Mining Law 1999

60 Jefferis K., *supra* (53 at 62

61 Valentine T., *Botswana's Financial Assistance Policy and the Indigenization of Industrial Employment*, (Montclair State University: New Jersey, 1993) at 8.

Entrepreneurial Development Agency (CEDA).[62] Each of these was created to provide technical and financial support to domestic business initiatives. Botswana also has had a policy on Small, Medium and Micro Enterprises (SMMEs) since 1998.

In 1989, Botswana established its stock exchange and since then about 40 companies are listed including multinationals and those involved in mining projects. Some of the companies are dual listed on the LSE, Toronto Stock Exchange (TSX) or Australian Securities Exchange (ASX). The fact that these companies are listed in Botswana allows domestic investors to participate in the mining projects.[63] This continues to be the State's strategy over the years and in its 10th National Development Plan (NDP) the government vowed that:

> "In order to facilitate citizen empowerment the government will promote shareholding by citizens and special access to shares by management and employees. The Government will also set up an "Investment Trust Fund" to purchase a certain percentage of shares of privatized enterprises on behalf of citizens. These shares will later be sold to citizens in small tranches over a given period. Government will also extend the Small, Medium and Micro Enterprises (SMME).

However, some criticisms of the extractive industry in Botswana include the low capacity to generate employment, the limited number of domestic investors and the lack of downstream processing and value adding chain. In order to solve some of these challenges the Botswanan Government recently renegotiated the establishment of downstream activities with De Beers, including diamond beneficiation in country through the Diamond Trading Company Botswana (DTCB) established in 2006. In 2013, Global Sightholder, the De Beers trading arm that sells about 90% of all diamonds produced by the group moved from London to Botswana.[64]

---

62 *Citizen Entrepreneurship Development Agency available* on (http://www.ceda.co.bw/background) last accessed 26 October 2017.

63 Jefferis K., supra (53) at 69.

64 *De Beers Group: Our story*, available at (http://www.debeersgroup.com/en/our-story/our-history.html) last accessed 26 October 2017.

4.2.2 Politics and democracy

Botswana has been a democracy right from its infancy, in the 1960's.[65] From its independence in 1966, the country has been ruled by the same Botswana Democratic Party (BDP), founded in 1962. In more than 50 years, Botswana elected 4 presidents all from the same party.[66] It never experienced a civil war. As with its elections, Botswana has always had a detailed comprehensive vision indicating clearly the objectives to be pursued in a given interval of, normally, five years. In over 50 years since independence Botswana has had ten National Development Plans. The political, social and economic environment in Botswana is considered to be stable. Revenue from natural resources is used to promote development and to create financial reserves.[67]

4.2.3 Corruption levels

Unlike the majority of resource rich countries, Botswana's strategy to market the mining industry is based on a clear business model with the involvement of national stakeholders determined by a transparent policy regime, free of corruption and political interference that gives investors freedom to operate according to the rules.[68]

In the 1990s Botswana faced some cases of corruption and misuse of public funds, which were tackled.[69] In 2015 it ranked third place in the Mo Ibrahim index falling to fourth place in 2016. In the same year it ranked 35 in the Global Corruption Perception Index[70]. According to Transparency International, however, some cases concerning lack of

---

65 Godfrey, *supra* (53) at 4.
66 Botswana Government and Society, available on (https://www.britannica.com/place/Botswana/Government-and-society#ref479980), last accessed on 20 October 2017.
67 *Botswana, Country Profile*, (UNECA: Addis Ababa, 2015) at 3.
68 Jefferis K., (53) at 62
69 *Overview of Corruption and Anti-Corruption in Botswana,* available on, (https://www.transparency.org/whatwedo/answer/overview_of_corruption_and_anti_corruption_in_botswana), last accessed 20 October 2017.
70 *Idem*.

transparency, patronage networks, conflicts of interest, nepotism and judicial lack of independence hinder the intended progress.[71]

4.2.4 Legal framework

Since its independence Botswana has known only one Constitution which was amended in 2006. Among other This provides for right of private property and establish that the only exception in with property can be taken are interests of defence, public safety, public order, public morality, public health, town and country planning or land settlement.[72] It also provides in the exceptions that property can also be taken for the benefit of community and for development or utilization of mineral resources.[73]

The Botswana Company Act in force was enacted in 2007 and the amended in 2008. It provides for different types of companies including public and private depending on the limitation by shares.[74] Botswana has signed 9 BITs five of which with African Countries two with Asians (China and Malaysia) one with Switzerland, 8 TIPs and 11 IRIs.[75] However, is not part of GATTs, TRIPs or ICSID.

The Mine and mineral Acts of Botswana, 1999 is the second since the 1970s. It has been amended a number of times namely in mining code in force in Botswana dates back from the 1970s although it had many amendment 2007 and again in 2012. It provides for private ownership and indicates clearly that the government can acquire a 15% ownership in any mining project and negotiate for diamonds.[76] It also encourages domestic private ownership and foreign companies are advised to register locally.

---

[71] *Overview of Corruption and Anti-Corruption in Botswana,* available on, (https://www.transparency.org/whatwedo/answer/overview_of_corruption_and_anti_corruption_in_botswana), last accessed 20 October 2017.

[72] Chapter II, 8 (1) (a) The Botswana Constitution, 1966.

[73] *Idem* (ii), (ii).

[74] Section 19 (1),(2),(3), (4), Botswana Company Act, 2007.

[75] International Investment Agreements Navigator *Nigeria BITs*, UNCTD available at (http://investmentpolicyhub.unctad.org/IIA/CountryBits/153), last accessed 29 October 2017.

[76] Part IV (40) and (51), Botswana Minerals and Mining Act, 1999.

4.3 Summary

Nigeria and Botswana share some similarities but also have many differences. Both were British colonies, both obtained independence in the 1960s and are resource dependent although one on hard rock minerals and the other on refineries. Both countries were democracies since the very beginning. In fact, as Leith argues "democracy alone is not sufficient to explain the country rapid economic growth, rather it is a combination of history interest, institutions working within a democracy" that can explain growth.[77] One of the major differences between Botswana and Nigeria is that in Botswana, privatization was not imposed by multinational institutions as a precondition for the country to have access to financial aid or investment. It was a well thought out process aiming at providing opportunity to nationals and to guarantee the State's efficiency as it will concentrate on basic services.

The two countries under consideration in this chapter provide a clear picture of different paths resource rich countries can take. From these it can be demonstrated, once again, that resources per se cannot be a curse. The conditions established in each country can lead to different outcomes depending on the institutions, policies and business models chosen.

---

77 Why Botswana prospered, *supra* 119.

CHAPTER 5

CONCLUSION

Unlocking the natural resources potential in Sub-Saharan Africa

The economic and political effects of the so-called 'resource curse' reveal an astonishing reality. In some resource rich countries people starve, are subject to violent conflicts and witness few economic alternatives. In others, people enjoy prosperous lives, growth and peace. These two conflicting realities suggest that the resource curse theory, in concentrating on the negatives, is selective and "based on a narrow view of history."[1]

From the analysis of the two perspectives it becomes clear that "resources are not a curse to development, but rather a safety net to support people and economies even under adverse circumstances."[2] Natural resources can provide countries and governments with desirable opportunities for growth and for the defence of their sovereignty.[3] Besides being a source of revenue,[4] non-renewable resources can support the establishment of a strong army in times of conflict, though, conversely, they can also be a source of divergence among parties.

As demonstrated in this dissertation, poor performance of resource rich countries results from factors including the government's incapacity to undertake the proper management of resources together with the "lack of political will and limited civil society

1 Luong P.J., Weinthal E., *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States*, Cambridge Studies in Comparative Politics, (Cambridge University Press: New York, 2010) at 323.

2 Brunnschweiler, Christa N., and Erwin H. Bulte. *Linking natural resources to slow growth and more conflict*, *Science-New York Then Washington-* 320 (2008): 616.

3 Frankel, J. A., *The Natural Resource Curse: A Survey of Diagnoses and Some Prescriptions*, HKS Faculty Research Working Paper Series RWP12-014, John F. Kennedy School of Government, Harvard University, 2012.

4 El-Gamal M. A., Jaffe A. *Oil, Dollars, Debt, and Crises: The Global Curse of Black Gold*, (Cambridge University Press: New York, 2010) at 16.

pressure for change."[5] It appears that in many resource rich countries, the large majority of political and private actors tend to concentrate on the pure income advantages brought by the natural resources, rather than long-term development. In these countries, different groups fight for control in order to secure the flow of income. Further, the lack of innovation and entrepreneurship in these countries leads to poor economic performance. These factors along with weak institutions enable corruption and violence to flourish. Institutions, as Ellman argues, "have a powerful impact both on how new found resource wealth is used and on how it affects politics."[6]

Weak institutions will limit the bargaining capacity of a state. In general, given their incapacity, resource rich states in sub-Saharan Africa tend to base the access to mineral rights on agreements negotiated by unexperienced or corrupt officials,[7] leading to agreements favouring the transnational corporations (TNC's), that are not uniform and not publicly disclosed. According to Barma *at al* this is a corollary of the fact that many developing nations are "short-sighted" and rely on "suboptimal" policies with the intention of extracting revenue in order to satisfy the elite's consumption over long-term investment.[8] Amuzegar sums it up in a very interesting manner when he says that in these cases once a pattern is establishedit becomes difficult to "shift gear, correct mistaken policies or adopt counteracting adjustment measures once booms turned inevitably into busts."[9]

In fact, recent mechanisms designed to alter the fate of the resource rich countries have not done enough. In many jurisdictions things have gone from nationalization to privatization back forth. Mining legislations and company laws have been altered a number of times. Although the Extractive Industries Transparency Initiative (EITI) is considered to be a very important tool to uncover corruption in the extractive industry; it is designed to

[5] Claire Mcloughlin, Natural resource exploitation and peacebuilding pg 6 [Incomplete footnote].

[6] Ellman, Michael. Russian´s Oil and Natural Gas: Bonanza or Curse? Athem Press, Oxford, 2006 p. 191

[7] Kienzle D., *Cooperation and Development, Natural Resource Contract as a Toll to Managing The Mining Sector*, German Federal Ministry for Economic Columbia Center on Sustainable Development, 2015 at 26

[8] Naazneen H.B., Kai Kaiser Tuan Minh Le, Viñuela L. *Rents to Riches: The Political Economy Of Natural Resource–Led Development* (World Bank: Washington, 2012).

[9] Amuzegar J., *Managing the Oil Wealth: OPEC's Windfalls and Pitfalls* (I.B. Tauris: London, 2001) as cited by El-Gamal M. A., Jaffe A., *supra* a (4) at. 49.

capture what is legally paid by extractive companies to the government and how it is distributed but is blind to illegal cash traded through different schemes including multinational companies' involvement.

TNCs' capacity to engage with International Financial Institutions (IFIs) in lobbing and influencing both international law and investment funds, also affects the freedom of resource rich nations to undertake proper measures to alter their fate.[10] In fact Trans National Companies (TNCs) "inducements or threats" have the capacity to change domestic developments.[11] The terms of trade, adjustment measures, international covenants, Bilateral Investment Treaties (BITs) and international litigation through arbitration are some of the instruments they use to push their cause through, maximum profits, at any cost. They use their capacity to cause unrest, if necessary, as was the case when Canadian companies instigated unrest in Bolivia.[12] According to the World Bank "international actors can affect the domestic policy arena by changing the dynamics of contestation, shifting actor incentives, or shaping actor norms."[13]

It is indeed a paradox to consider human failure to deliver the results as a curse[14] as it does not provide a sustainable solution for developing countries. The resource curse theory, as Minsky puts it, is denying that "what is happening can happen," it is seeing unfavourable events as the work of evil outside forces rather than as a result of characteristics of the economic mechanisms in place. It may contribute to perpetuate the

[10] Darimani A., *An Alternative Investment Framework For Africa's Extractive Sector: A Perspective From Civil Society,* Paper Presented at the Ccic Conference on Development, Investment and Extractive Sector, May 13-14, 2009 Ottawa, Canada.

[11] World Bank Group. 2017. *World Development Report 2017 : Governance and the Law*. Washington, DC: World Bank. © World Bank. (https://openknowledge.worldbank.org/handle/10986/25880 License: CC BY 3.0 IGO) at 259.

[12] Dıaz-Cuellar V., Francescone K., *supra* at 226.

[13] World Bank Group, 2017, *supra 258.*

[14] A solemn utterance intended to invoke a supernatural power to inflict harm or punishment on someone or something. (Oxford Living dictionaries available at https://en.oxforddictionaries.com/definition/curse last accessed 27 Oct 2017).

undesirable scenario by satisfying politicians' need for a villain as scapegoat.[15] So, in *lieu* of discouraging mining in developing countries as some scholars and proponents of the resource curse theory argue, natural resources should, by all means, be encouraged.[16]

It should be so because well-managed Extractive industries (EI) can bring shared benefits to different groups in a given economy. This can be in the form of wages for certain groups of employees who have access to the industry, although in reduced numbers. It can also take a form of fiscal rents (taxes and royalties) which if properly managed can elicit social benefits for the nation and especially for the local population, development of new economic ventures to support the industry and direct access to market of the extracted product. The benefits can be felt from all phases of the process from the exploitation to closure including compensation for the affected groups from the project. However, for that to take place, proper policies and mechanisms must be in place.

The problem is that, in many instances, resource rich nations are not prepared to undertake the needed reforms nor to consider the required changes. They tend to be reactive and dependent even in times of revenue decline as a result of mineral and oil price falls. That attitude tends to influence the entire economy and the political system of resource rich countries, affecting greatly the government strength and revenue. But this, once again, is the result of weak institutions and policies. It is also a result of International Financial Institutions interference and international law that tend to shape the internal destiny of many countries by undermining the role of sovereign states in managing their resources.[17]

There is enough evidence that the "resource curse" is a myth and vanishes over the analysis of its characteristics or as Sachs say "is not bullet proof."[18] It is also true that the

[15] Minsky H., Can It Happen Again: Essays on Instability and Finance (New York:M.E. Sharp, 1982) as cited by El-Gamal M. A., Jaffe A., *supra* at 143.

[16] Graham A. Davis and John E. Tilton, The resource curse. Natural resource Forum, 2005.

[17] Blanco E., Razzaque J. *Globalization and natural Resources Law: Challenges, Key Issues and Perspectives,* Cheltenham, (Edward Elgar:2011) at 42.

[18] Sachs J., Warner A., *The curse of natural resources* (Harvard University Press: Cambridge, 2001), at 828.

resource curse theory cannot stand over the number of countries that have profited from their resources and that were able to grow in different areas including economic, social and political levels. Those countries include the Scandinavian countries headed by Norway, the United States of America, Canada, South Africa and Botswana, all of which are living witnesses that good institutions and strong domestic private sectors can turn their natural resources into a blessing rather than a curse.[19]

In fact as El Hamal indicates, "income distribution within and across countries play pivotal roles in perpetuating the cycles which can only be attenuated with proper understanding and vigilance."[20] Above all, the involvement of the domestic private sector in the industry proved to be the secret in the majority of countries that demonstrate positive results from their natural resources, South Africa and Botswana included. The road to development from natural resources, contrastingly from the nationalisation of assets as advocated, commences from the involvement of domestic private ownership in the extractive industries. That appears to be the reality in many countries that are reaping positive results, for reasons including the following:

First, the use of domestic players in the ownership structure whether private or state creates a possibility of allowing the foreign investors to have a minimal role in the development of the extractive sector as foreign investors tend to be minority shareholders. However, because in many cases the state parties are accused of inefficiency and corruption, private shareholding is the remaining option.

Second, domestic private investors in the EI will shape the quality of institutions. One should depart from the theory to the reality that weak institutions and poor development policies are not a result of natural resources but rather of who owns and controls the mineral sector. Domestic private ownership is likely to build strong institutions and alike fiscal regimes. As Luong says:

---

[19] UNDP *supra at* 3; El Gamal M. A., Jaffe A. M *supra* 15.

[20] UNDP *Idem at* 1.

"shifting the analytical focus away from mineral wealth to ownership structure provides not only a more complete explanation for why specific types of taxation and spending policies emerge but also new insight into why the state has so often failed to serve as an effective engine of economic growth in mineral rich countries"[21]

Third, domestic private owners spend productively their proceedings in country as opposed to international investors who, at the end of the day, export the profits causing disequilibrium in domestic financial markets of the jurisdiction where they operate.

Fourth, domestic investors maintain their assets, make investments in country and rely on domestic supply networks to market their products.[22] They maintain their savings in local banks from where they borrow money and pay interest.[23] The income they receive from sales is kept in local banks. Again, they tend to be listed in the local stock exchange and thereby provide the opportunity to other domestic stakeholders to participate in the structure.

Fifth, in order to maintain their position, domestic private entities will pressurise the government to reveal information to them, to the public, shareholders and future investors.[24] It is clear that the involvement of nationals in the structure of the extractive industry will create the necessary capacity to demand the political elite to provide transparency and to adopt sound development policies that favour diversification. In that way the information asymmetry is reduced thus reducing the conflicts.

One should be aware that the inclusion of the political elite alone and the random distribution of revenue without following specific proven mechanisms could also contribute

[21] Luong P.J., Weinthal *supra* at 49.
[22] *Idem* at 57.
[23] Cross R., Nigeria Oil Industry Goes Into survival Mode, African Business, available at http://africanbusinessmagazine.com/sectors/commodities/nigeria-oil-industry-goes-into-survival-mode/ last accessed 15 Oct. 2017.
[24] Idem .

to further weakening of the country and exacerbation of the problem as, in a spirit of gratitude, the beneficiaries will place no or few demands for sound management of the resources.

This dissertation did not set out to cover or solve the entire problem relating to the issues many resource rich countries face, but to ascertain that because a company is a means of achieving economic and social benefits;[25] It also intended to propose research angles to consider in relation to domestic involvement in the equity structure of the extractive companies in order to tackle the economic and political challenges created by the resource boom in Sub-Saharan Africa. Much more needs to be done in order to consolidate the arguments advanced in this paper. Future research should also concentrate on areas such as practical mechanisms for creating EI domestic business structures in sub-Saharan Africa. Lessons may be learnt, for example, from the Botswanan strategy of involvement of national stakeholders together with multinationals based on a clear, well-considered business model and from the Canadian strategy for junior companies.

Researchers should also study the financial engineering, institutions and other mechanisms to finance the African juniors in mining, oil and gas. Certainly comprehensive and practical promotional instruments need to be established and operationalized if resource rich countries are to turn on the blessings that mineral resources can and should represent.

[25] Chapter 1, Part B, Section 7 (d), SA Companies Act, 2008.

BIBLIOGRAPHY

Legislation

- Constitution of Botswana, 1966.
- Constitution of the Federal Republic of Nigeria, 1999.
- Constitution of Nigeria, 1979
- Constitution of Nigeria, 1963;
- Botswana Company Act, 2007.
- Botswana Minerals and Mining Act, 1999.
- Botswana Mining Law, 1999
- Company and Alliens Matters Act, 2004.
- Nigeria Petroleum Act, 2004 (as amended).
- Nigerian Company Act 1968.
- Nigerian Minerals and Mining Act 2007.
- Nigeria Enterprise Decree 1972, February 1972

Books and Journals

- Abdulai Darimani, An Alternative Investment Framework For Africa's Extractive Sector: A Perspective From Civil Society, Paper Presented At The Ccic Conference On Development, Investment And Extractive Sector, May 13-14, 2009 Ottawa, Canada.
- Adegoke K.S, *Assessment Of The Nigeria Extractive Industries Transparency Initiative (Neiti) In Curbing Corruption In The Nigerian Extractive Industry*, (Ahmadu Bello University: Zaria, 2015).

- Amuzegar J., *Managing the Oil Wealth: OPEC's Windfalls and Pitfalls* (I.B. Tauris: London, 2001) as cited by El-Gamal M. A., Jaffe A.(2010).
- Bakre O. M*., Looting by the Ruling Elites, Multinational Corporations and the Accountants: The Genesis of Indebtedness, Poverty and Underdevelopment of Nigeria,* (School of Accounting, Finance & Management: Colchester, 2015).
- Banks G., *Activities of TNCs in extractive industries in Asia and the Pacific: implications for development, Transnational Corporations*, **(**UNCTD: Geneva, 2009).
- Begovic B., *Corruption: concepts, types, causes and consequences*, (Center for Liberal-Democratic Studies: 2005).
- Bellmann, C. et al; *Trade and Investment Framework in Extractive Industries: Challenges and Options*, (ICTSD, WEF: Geneva, 2016).
- Besada B., Martin P., *Mining Codes in Africa: Emergence of a "Fourth" Generation?*, (The North South Institute: Ottawa, 2013).
- Blanco E., Razzaque J. *Globalization and natural Resources Law: Challenges, Key Issues and Perspectives,* (Edward Elgar: Cheltenham ,2011).
- Blanco E., Razzaque J., *Globalisation and Natural Resources Law : Challenges, Key Issues and Perspectives*; (Edward Elgar: Cheltenham, 2011).
- Bonnie Campbel, *Mining in Africa: Regulation and Development: Regulation and Development*, (Pluto Press: London, 2009) .
- Botchway, F. N., *Natural Resource Investment and Africa's Development*, *New Horizons in Environmental and Energy Law*, (Edward Elgar: Cheltenham, 2011).
- Brunnschweiler, Christa N., and Erwin H. Bulte. *Linking natural resources to slow growth and more conflict*, *Science-New York Then Washington-* 320 (2008): 616.
- BUKOLA , A. *A Critical Appraisal of The Doctrine Of Corporate Personality Under The Nigerian Company Law, (* Augustine Nnamani Campus: Enugu, …
- Cambridge Studies in Comparative Politics, (Cambridge University Press: New York, 2010) at 323.
- Cameron P. D., Stanley M.C., *Oil, Gas and Mining: A Source Book for understanding the Extractive Industries,* (World Bank Group: Washington, 2017).
- Canuto O., *Cavallari* M., *Natural Capital and the Resource Curse,* Poverty Reduction And Economic Management Network, (World bank: Washington DC 2012).

- Caselli F., Andrea Tesei. "Resource Windfalls, Political Regimes, and Political Stability." Review of Economics and Statistics, vol. 98, no. 3, 2016, pp. 573–590., doi:10.1162/REST_a_00538.Christiansen H., *Balancing Commercial and Non Commercial Priorities of State-Owned Enterprises*, OECD Corporate Governance Working Papers, No. 6, (OECD Publishing, 2013).

- Christiansen H., *Balancing Commercial and Non Commercial Priorities of State-Owned Enterprises*, OECD Corporate Governance Working Papers,(OECD Publishing, 2013).

- Coleman S., Carsky M., *Sources of Capital for Small Family Owned Businesses: Evidence from the National Survey of Small Business Finances,* (Family Firm Institute: Ottawa, 1999).

- Cuervo-Cazurra A., Inkpen A., *et al*, *Goverhnments As Owners: State-Owned Multinational Companies*, (Journal of International Business Studies: 2014).

- Darimani A., *An Alternative Investment Framework for Africa's Extractive Sector: A Perspective from Civil Society, (Third Word Network-Africa: Ottawa, 2009).*

- du Plessis S., *Nationalizing South African mines: an enonomic assessment, (The Journal of The Southern African Institute of Mining and Metallurgy:2013)*

- El-Gamal M. A., Jaffe A. *Oil, Dollars, Debt, and Crises: The Global Curse of Black Gold*, (Cambridge University Press: New York, 2010).

- Ellman, M., *Russia's Oil and Natural Gas Bonanza or Curse?*, (Anthem Press: London, 2006).

- Ellman, Michael. Russian´s Oil and Natural Gas: Bonanza or Curse? Athem Press, Oxford, 2006 p. 191

- Erickson M. *et al, Overview of State Ownership in the Global Minerals Industry*, Raw Material Group, (World Bank: Washington DC, 2011).

- Ericsson M., Löf F., *Overview of the State Ownership in the Global Mineral industry: Long Term, Trend and Future*, Extractive Industry Development Series, (World Bank: Washington, 2011).

- Falola T., Heaton M. M., *A History of Nigeria: The Nobel People in the Nigerian History*, (Cambridge University Press 978-0-521-86294-3 at xvi.

- *Framework for Harnessing the Extractive Industries for Inclusive Growth and Development in Nigeria*, (UNDP: Abuja, 2014).

- Francesco C., Tesei A., *Resource Windfalls, Political Regimes, and Political Stability*, Review of Economics and Statistics, vol. 98, no. 3, 2016, pp. 573–590., doi:10.1162/REST_a_00538.Frankel J. A., *supra* at 9; Ross, M. L., Does oil Hinder democracy, (Cambridge University Press:, 2008)

- Frankel J. A., *The Natural Resource Curse: A Survey of Diagnoses and Some Prescriptions*, John F. Kennedy School of Government, (Harvard University: Cambridge, 2012).

- Frankel, J. A., *The Natural Resource Curse: A Survey of Diagnoses and Some Prescriptions*, HKS Faculty Research Working Paper Series RWP12-014, John F. Kennedy School of Government, Harvard University, 2012

- Fraser A. and Larmer M., *Zambia, Mining, and Neoliberalism Boom and Bust on the Globalized Copperbelt,* (Palgrave Macmillan: New: New York), at 211.

- Gboyega A., Søreide T., Minh Le T, Shukla G. P., *The Political Economy of the Petroleum Sector in Nigeria, (World Bank: Washington DC, 2011).*

- Gelb A. H., *Oil Windfalls Blessing or Curse?* (Oxford University Press: New York, 1988) at 23.

- German Federal Ministry for Economic (Columbia Center on Sustainable Development, 2015.

- Harford T., Klein M., *Aid and the Resource Curse*, (World Bank: Washington DC, 2005).

- Hyden G., *African politics in comparative perspective*, (Cambridge University Press: 2012).

- James J. Hentz*, South Africa and the 'Three Level Game': Globalisation, Regionalism and Domestic Politics, (*Commonwealth & Comparative Politics*:* 2008).

- *James J. Hentz, South Africa and the 'Three Level Game': Globalization, Regionalism and Domestic Politics, (Commonwealth & Comparative Politics:2008), at 479;*

- Jefferis K., The role of TNCs in the extractive industry of Botswana, Transnational Corporations, (UNCTAD: New York, 2009).

- Karl T. L., *The Paradox of Plenty: Oil Booms and Petro-States*, (Cambridge University Press: 1999).
- Kienzle D., *Cooperation and Development, Natural Resource Contract as a Toll to Managing The Mining Sector*,
- Kojo N. C., *Demystifying Dutch Disease, (World Bank: Washington DC, 2015), at* 2.
- Kolstad I., Wiig A., *Digging in the dirt? Extractive industry FDI and corruption*, (*EconGov: Heidelberg*, 2013).
- Kolstad I., Wiig A., Williams A., *Mission Improbable: Does Petroleum-Related Aid Address the Resource Curse? (*Energy Policy: Bergen, 2009).
- Le Billon P., *The Political Ecology of War: Natural Resources and Armed Conflicts*, (Political Geography: Oxford, 2001).
- Likosky M., Contracting and Regulatory Issues in the Oil and Gas an Metallic Minerals, Transnational Corporations, (UNECA: Addis Ababa, 2009).
- Luong P.J., Weinthal E., *Oil Is Not a Curse: Ownership Structure and Institutions in Soviet Successor States*, Cambridge Studies in Comparative Politics, (Cambridge University Press: New York, 2010).
- Maipose G. S., *Institutional Dynamics of Sustained Rapid Economic Growth with Limited Impact on Poverty Reduction, (*United Nations Research Institute For Social Development: Geneva, 2008).
- Mansell R.L, *et al*, *Size, Role And Performance In The Oil And Gas Sector*, The School of Public Policy, (University of Calgary, vol. 5, issue 23, 2012.
- Marslad L., *Does Resource Curse Affect Education? An Empirical Analysis of Oil Wealth and Public Education Spending, 1980–2006, Dissertation,* (NUPI: Trondheim, 2011).
- Mcloughlin C., *Natural resource exploitation and peacebuilding*, (Governance and Social Development Resource Centre: , 2012).
- Mehlum H., Moene K., Torvik R., *Mineral rents and social development in Norway*, Mineral Rents and the Financing of Social Policy (Palgrave Macmillan UK: 2012). p. 155-184.
- Minsky H., Can It Happen Again: Essays on Instability and Finance (New York: M.E. Sharp, 1982).

- Mohamed U. *Corruption In Nigeria: A Challenge To Sustainable Development In The Fourth Republic, (*European Scientific Journal: 2013*).*

- Mukund, K., The Resource Curse, *The Political and Economic Challenges of Natural Resource, (*Natural resources Governance Institute: Washington DC, 2015).

- Mwakikagile G, Botswana since independence, (New Africa Press: Pretoria, 2009).

- Naazneen H.B., Kai Kaiser Tuan Minh Le, Viñuela L. *Rents to Riches: The Political Economy Of Natural Resource–Led Development* (World Bank: Washington, 2012).

- Nkosi D. *et al* , *Breaking New Ground*, The Report of the Mining, Minerals and Sustainable Development Project, (MMSD, Earthscan: London, 2002).

- Odeyemi, J. O., A Political History of Nigeria and the Crisis of Ethnicity in Nation-Building, (*International Journal of Developing Societies*, 2014).

- *Okek V.O.S, Aniche, E. T., A Critique of the Enforcement of Nigeria Extractive Industries Transparency Initiative (Neiti) Act 2007 in Nigerian Oil and Gas Sector*, (British Journal of Arts and Social Sciences, 2013*).*

- Okereka, O.P., *Evolution Of Constitutional Government In Nigeria: Its Implementation National Cohesion,* (Global Journal of Political Science and Administration:2015).

- Pegg S., *Poverty reduction or poverty exacerbation*, (Bank Information Centre: Washington DC, 2003).

- Rafiu O., Owolabi A., Folasayo S. N., *The Nigerian state, political assassination and democratic consolidation: A historical exploration*, (Obafemi Awolowo University Ile-Ife: Osun State, 2009).

- Ross M. L., *How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases*, (University of California: Los Angeles, 2004).

- Ross M. L., *How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases*, (Cambridge University Press: New York, 2004).

- Sachs J. D., Warner A. M. *The Curse of Natural Resources*, (Harvard University: Cambridge, 2001),.

- Sachs J., Warner A., *The curse of natural resources* (Harvard University Press: Cambridge, 2001).

- Shepherd A. et al, *The Chronic Poverty Report 2014-2015: The Road to zero Extreme Poverty* (Overseas Development Institute: London, 2014).

- Spektorov Y. *et al, The Global Diamond Industry: Portrait of Growth, (*Bain and Company, AWDC: 2012).

- Standing A., *Corruption and the Extractive Industry in Africa: Can combating corruption cure the resource curse?, (Institute for Security Studies*: Cape Town, 2007).

- Stevens P., *et al*, *Conflict and Coexistence in the Extractive Industries*, Chatham House Report (The Royal Institute of International Affairs: London, 2013).

- Tankeu E. *et al*, *Minerals and Africa's Development: The International study Group on Africa's Mineral Regimes* (UNECA: Addis Ababa, 2011).

- Tanzi V., *Corruption Around the World: Causes, Consequences, Scope and Cures*, (IMF: Washington DC, 1998).

- *The Resource Curse, The Political and Economic Challenges of Natural Resource, (*Natural resources Governance Institute: Washington DC, 2015).

- Tordo S., Tracy B. Arfaa N., N*ational Oil Companies and Value Creation*, (World Bank: Washington, 2011).

- Valentine T., *Botswana's Financial Assistance Policy and the Indigenization of Industrial Employment*, (Montclair State University: New Jersey, 1993).

- Vladimir D., Francescone K. *Canadian Mining Interests in Bolivia, 1985-2015: Trajectories of Failures, Successes, and Violence* (Latin American Policy: Ottawa, 2016).

- Zhan. J. X. *et al*, Investment *and Digital Economy*, World Investment Report, (UNCTAD: Geneva, 2017), (UNCTAD, 2007).

- Liberti L. *et al*, *Corruption in the extractive value chain: Typology of risks, mitigation measures and incentives*, (OECD Publishing: 2016).

- Limpitla D., *Nationalization and Mining: Lessons from Zambia, (The Journal of The Southern African Institute of Mining and Metallurgy: Lusaka, 2011).*

Policy Documents and Reports

- *Africa Economic Outlook 2012, Botswana*, (Africa Development Bank: Addis Ababa, 2012)
- Africa Mining Vision, (African Union: Addis Ababa, 2007).
- Botswana, Country Profile, (UNECA: Addis Ababa, 2015).
- Contracting and regulatory issues in the oil and gas and metallic minerals industries, Transnational Companies, vol. (UNCTD: Geneva, 2009).
- Framework for Harnessing the Extractive Industries for Inclusive Growth and Development in Nigeria, (UNDP: 2014).
- *Guide to Extractive Industries Documents* – Oil & Gas, (World Bank: Washington DC, 2013).
- *Investment Policy and Bilateral Investment Treaties in Africa: Implications for Regional Integration*, (UNECA: 2016).
- NEITI Audit Report 2009-2011.
- *NEITI, Oil and Gas Industry Full Audit Report*, (NEITI: Abuja, 2014).
- *Road Map for the Growth and Development of the Nigerian Mining Industry*, (Ministry of Budget and National Planning: Abuja, 2016).
- SADC Mining Protocol of 1997.
- Our Common Future, Report (WCED
- *World Development Report 2017: Governance and the Law. (*World Bank: Washington DC, 2017).
- World Investment Report, Transnational Corporations, Extractive Industries and Development, (United Nations Publication: New York, 2007).

Reference material

- Britannica, mining history, available on (https://www.britannica.com/technology/ mining) last accessed 2 October 2017

- Oxford Living Dictionary, (Oxford Living dictionaries available at (https://en.oxforddictionaries.com/definition/curse last accessed 27 Oct 2017).

Internet

- *Africa Mining, Mining in Botswana: An overview,* available at https://www.projectsiq.co.za/mining-in-botswana.htm accessed on 25 Oct 2017.

- Akinyanmi O., *How Local Companies are Wining in Nigeria, The Oil and Gas Year*, (29 May 2015) available at (http://www.theoilandgasyear.com/articles/how-local-companies-are-winning-in-nigeria/), last accessed 25 October 2017.

- Alfonso, P. P., *The devil´s excrement*, available at (http://www.economist.com /node/1795921) last access 15 October 2017.

- *Approximately $8.5 billion worth diamonds a year come from African countries,* available on *(*http://www.diamondfacts.org/index.php?option=com_content&view= article&id=107&Itemid=150&lang=en last) accessed 12 October 2017.

- Botswana Government and Society, available on (https://www.britannica. com/place/ Botswana/ Government-and-society#ref479980), last accessed on 20 October 2017.

- *Citizen Entrepreneurship Development Agency available* on (http://www.ceda.co.bw /background) last accessed 26 October 2017.

- Cornish L., *Nigeria should definitely be on your investment radar! Mining Review Africa*, 26 Sept 2017, available on (https://www.miningreview.com/features/nigeria-definitely-investment-radar/), last accessed on 17 Oct 2017.

- Corruption Perceptions Index 2016, Transparency International available at (https://www.transparency.org/news/feature/corruption_perceptions_index_2016) last accessed 22 Oct 2017

- *De Beers Group: Our story*, available at (http://www.debeersgroup.com/en/our-story/our-history.html) last accessed 26 October 2017.

- Economic Recovery & Growth Plan 2017-2020, Ministry of Planning and Budget, 2017 available at https://estateintel.com/wp-content/uploads/2017/03/Nigeria-Economic-Refom-Plan-2.pdf, last accessed 25 Oct 2017.

- Economic Report on Africa: *Unlocking Africa´s Trade Potential*, (UNECA: Addis Ababa, 2004) at 32.

- Ford N., *Africa's Top 250 Oil and Gas, (*African Business Magazine, 18 June 2014), available at http://africanbusinessmagazine.com/sectors/commodities/africas-top-250-companies-oil-gas/ last accessed 13 August 2017.

- Gaita H., *Shell scandal shows why transparency for oil, gas & mining is vital*, Global Witness, Transparency International, 11 April 2017, available on (https://transparency.eu/shell-knew/) last accessed on 20 Oct 2017.

- *GDP by Country Statistics from the World Bank, 1960-2016* , available at (http://nigeria.opendataforafrica.org/mhrzolg/gdp-by-country-statistics-from-the-world-bank-1960-2016) last accessed 17 October 2017.

- Graham A. Davis and John E. Tilton, The resource curse. Natural resource Forum, 2005.

- Greer J., Singh K. *Brief history of transnational corporations,* available at *(*https://www.globalpolicy.org/empire/47068-a-brief-history-of-transnational-corporations.html), last accessed 02 October 2017.

- Greer J., Singh K., *Brief History of Transnational Corporations*, available at (https://www.globalpolicy.org/empire/47068-a-brief-history-of-transnational-corporations.html) last accessed 27 October 2017.

- *Helping Countries Combat Corruption: The Role of the World Bank*, Corruption and Economic Development, World bank, available on (http://www1.worldbank.org/ publicsector/anticorrupt/ corruptn/cor02.htm#note1) last accessed 22 October 2017.

- Herold's Financial dictionary, available at (https://www.financial-dictionary.info/terms/big-oil-super-majors/) last accessed 30 September 2017.

- Increasing Local Multi-stakeholder Participation Will Move the Extractive Industries Forward, This Day, 14 July 2017 available at (https://www.thisdaylive.com/index. php/2017/07/14/increasing-local-multi-stakeholder-participation-will-move-the-extractive-industries-forward/) last accessed 17 Oct 2017.

- International Investment Agreements Navigator *Nigearia BITs*, UNCTD available at (http://investmentpolicyhub.unctad.org/IIA/CountryBits/153), last accessed 29 October 2017.

- International Investment Agreements Navigator *Nigeria BITs*, UNCTD available at (http://investmentpolicyhub.unctad.org/IIA/CountryBits/153), last accessed 29 October 2017

- Lienert I., *Where Does the Public Sector End and the Private Sector Begin?*, IMF Working Paper, (Fiscal Policy Department: Washington, 2009), at 2; *Ownership structures and legal forms*, available at (http://www.open.edu/openlearn/money-management/management/business-studies/different-types-business/content-section-4) last accessed on 29 September 2017.

- Lopes C., *Africa must benefit from its mineral resources*; available on (http://www.uneca.org/africa-must-benefit-its-min) last accessed 27 June 2017.

- Nigeria, Trading economics, available at (https://tradingeconomics.com /nigeria/gdp), last accessed 29 October.

- *Nigeria: Local participation in the oil sector is growing*, (The Economist Intelligence Unit, 12 Nov 2013), available (athttp://www.eiu.com/industry/article/ 341161618/nigeria-local-participation-in-the-oil-sector-is-growing/2013-11-12), last accessed 23 October 2017.

- Oando, available on (http://www.oandoplc.com/about-us/our-journey/) last accessed 12 Oct 2017.

- *Overview of Corruption and Anti-Corruption in Botswana,* available on, (https://www.transparency.org/whatwedo/answer/overview_of_corruption_and_anti_corruption_in_botswana), last accessed 20 October 2017.

- Petroleum Development Company of Nigeria Limited (SPDC). Available at (http://www.nnpcgroup.com/NNPCBusiness /UpstreamVentures.aspx) last accessed

- Raval A., Nigerian oil companies hit hardest by funding crisis, (27 November 2016) available on https://www.ft.com/content/56793724-923c-11e6-a72e-b428cb934b78) last accessed 25 October 2017.

- Rogoff, K. *What's behind the drop in oil prices?*, (World Economic Forum, 10 March 2016), available at https://www.weforum.org/agenda/2016/03/what-s-behind-the-drop-in-oil-prices/, last accessed 25 Oct 2017.

- Sigam, C., Iddrissu, D. 2013. *Extractive industries, related benefits and financial intermediation in Africa. GREAT Insights*, volume 2, Issue 2. February-March 2013. Maastricht: ECDPM available at (http://ecdpm.org/great-insights/growth-to-transformation-role-extractive-sector/extractive-industries-related-benefits-financial-intermediation-africa/) last accessed 02 October 2017.

- **Slack K.** Politics of *Why are resource-rich countries poor? Politics*, The Poverty, Ideas and analysis from Oxfam America's policy experts, 18 Nov. 2013, available at **https://politicsofpoverty.oxfamamerica.org/2013/11/why-are-resource-rich-countries-poor-politics/** last accessed 22 Sep 2017.

- State Owned Companies, NRGI, available at (https://resourcegovernance.org /resource-governance-index/report/state-owned-companies) last accessed 24 September 2017.

- *State Participation and State-Owned Enterprises Roles, Benefits and Challenges*, Reader, available at (https://resourcegovernance.org/sites/default/files/nrgi_State-Participation-and-SOEs.pdf) last accessed 28 October 2017.

- *The 2017 Atlas of Sustainable Development Goals: a new visual guide to data and development*, World Bank) available (http://blogs.worldbank.org/opendata/2017-atlas-sustainable-development-goals-new-visual-guide-data-and-development) last accessed 17 Oct 2017.

- The most Populated Countries in Africa, World Facts, World Atlas, available at (http://www.worldatlas.com/articles/the-most-populated-countries-in-africa.html) , last accessed on 17 Oct 2017.

- The Nigerian Stock Exchange, listed companies available on http://www.nse.com.ng/ Listings-site/listed-securities/listed-companies) last accessed on 12 October 2017.

- *The only Nigerian company fully listed on the Nigerian Stock Exchange and London Stock Exchange* available on (https://seplatpetroleum.com/about-us/at-a-glance/) last accessed on12 October 201)

- Voorhees, D., *Extractive Sector Companies Listed on Global Stock Exchanges*, (Revenue Watch Institute: New York, 2012) , available at (https://resourceg overnance.org/sites/default/files/GlobalCalculatorAug12.pdf) last accessed 02 October 2017

- World Bank Group, *World Development Report 2017 : Governance and the Law*, Washington, DC: World Bank, 2017, available at https://openknowledge.worldbank .org/handle/10986/25880 License: CC BY 3.0 IGO, last accessed 17 October 2017.

- World Bank Group. 2017. *World Development Report 2017 : Governance and the Law*. Washington, DC: World Bank. © World Bank. (https:// openknowledge. worldbank. org/handle/10986/25880 License: CC BY 3.0 IGO) at 259.