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Political Economy of the Petroleum Sector in Nigeria

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Abstract

The relatively slow pace of Nigeria's development has often been attributed to the phenomenon of the resource curse whereby the nature of the state as a "rentier" dilutes accountability for development and political actors are able to manipulate institutions to sustain poor governance. The impact of the political elite's resource-control and allocation of revenues on core democratic mechanisms is central to understand the obstacles to development and governance failure. Given that problems of petroleum sector governance are extremely entrenched in Nigeria, the key question is whether and how it is possible to get out of a poor equilibrium after fifty years of oil production. This paper uses a political economy perspective to analyze the governance weaknesses along the petroleum sector value chain and attempts to establish the links between challenges in sector regulation and the following major political and economic attributes: (i) strong executive control on petroleum governance in a political environment of weak checks and balances; (ii) regulatory and operating roles bundled into one institution, thereby creating conflict of interest; and (iii) manipulation of elections and political appointments.

The restoration of democratic government has helped improve transparency and management of oil revenue and reforms at the federal level and proposed reforms of the petroleum sector hold much promise. At the same time, the judiciary has started to restore confidence that it will serve as a check and balance on the executive and the electoral process. Yet, these reforms are fragile and need to be deepened and institutionalized. They must be addressed not as purely technocratic matters but as issues of political economy and vested interests that must, through regulation and reform, be aligned with the public interest and a vision of Nigerian development.

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Produced by the Research Support Team

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Abbreviations and Acronyms

BOF	Budget Office of the Federation
CBOS	Community-Based Organizations
CPI	Transparency International's Corruption Perception Index
CRF	Consolidated Revenue Fund
CSOs	Civil Society Organizations
DPR	Department of Petroleum Regulation
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
FGN	Federal Government of Nigeria
FIRS	Federal Inland Revenue Service
GDP	Gross Domestic Product
HRW	Human Rights Watch
ICPC	Independent Corrupt Practices Commission
IMTT	Interministerial Task Team
INEC	Independent National Electoral Commission
IOCs	International Oil Companies
LCV	Local Content Vehicle
LG	Local Government
JTF	Joint Task Force
JV	Joint Venture
LEEDS	Local Economic Empowerment and Development Strategy
MAN	Manufacturers Association of Nigeria
MDA	Ministries, Departments, and Agencies
MEND	Movement for the Emancipation of the Niger Delta
MOU	Memorandum of Understanding
MTEF	Medium-Term Expenditure Framework
MTSS	Medium-Term Sector Strategies

NAPIMS	National Petroleum Investment Management Services
NDDC	Niger Delta Development Commission
NDI	National Democratic Institute
NEEDS	National Economic Empowerment and Development Strategy
NEITI	Nigeria Extractive Industries Transparency Initiative
NGF	Nigeria Governors Forum
NJC	National Judicial Council
NLC	Nigeria Labor Congress
NNOC	Nigerian National Oil Corporation
NNPC	Nigerian National Petroleum Company
NPC	National Planning Commission
NSWG	National Stakeholder Working Group
NUPENG	National Union of Petroleum and Natural Gas Workers
OAGF	Office of Accountant-General of the Federation
OMPADEC	Oil Mineral Producing Areas Commission
OPEC	Organization of Petroleum Exporting Countries
PENGASSAN	Petroleum and Natural Gas Senior Staff Association of Nigeria
PFM	Public Financial Management
PIB	Petroleum Industry Bill
PPT	Petroleum Profits Tax
PPTA	Petroleum Profits Tax Act
PSA	Production-Sharing Agreements
PSC	Production-Sharing Contracts
RMAFC	Revenue Mobilization, Allocation, and Fiscal Commission
SEEDS	State Economic Empowerment and Development Strategy
SHA	State House of Assembly
STAR	Stolen Assets Recovery Initiative

I. Introduction

1. Nigeria is recognized as a country with the most known reserves of petroleum and gas in Sub-Saharan Africa. Petroleum has long become the most important aspect of the national economy, accounting for more than half of GDP, about 85 percent of government revenues, and over 90 percent of exports. Since oil was discovered in Nigeria more than five decades ago, the country has had a turbulent and disappointing development record and remains significantly oil-dependent. The scramble for control of natural resource rents has contributed to weak oil sector governance and to political upheavals and conflicts. These natural resource control-conflicts played out in the Biafran civil war, persistent conflict in the Niger Delta and undermined governance and service delivery, especially in the oil producing states. Over the last decade, Nigeria has shown some signs of improving governance, including the return to democratic rule since 1999 and the restoration of key principles of macroeconomic management (World Bank 2009a). Since 2003, Nigeria has embarked on an ambitious agenda of reforms aimed at enhancing governance in public financial management (PFM), banking services, power and telecommunications infrastructures, and transparency and accountability in the oil sector. The reforms have led to strong economic growth during 2003–07.

2. Despite these reforms, Nigeria remains a poor country with more than half of its population living below the poverty line and 35 percent living in conditions of extreme poverty (National Planning Commission 2007). Gross domestic product (GDP) per capita has remained almost unchanged (still below US$1,200) and there are few signs of multiplier effects from the oil industry.[1] For the majority of the population, few, if any, benefits from the oil industry have been realized. Public infrastructure has either declined severely or is in a state of collapse, and the unreliability of critical public utilities such as electricity is a primary reason why most manufacturing firms have closed (Borodo 2009).[2]

3. A country may struggle to turn petroleum revenues into sustainable development for the society at large for many reasons. The case of Nigeria, however, provides clear evidence of the failure to establish accountable institutions that would ensure governance in the public interest. At the time of the significant discovery of oil and its export in the 196os and 70s, Nigeria had military dictatorships for the most of the period and institutions were either weak or not put in place to manage the resources. This translated into a non-transparent oil sector and revenue management, and developed an environment in which politicians could benefit from nondemocratic power building. Democracy never had an opportunity to establish and sustain itself prior to 1999 and, as a result, a culture of political and bureaucratic accountability did not develop. Opportunities for rent-seeking have distorted incentives throughout the extractive industries value chain—including, for example, oil block awards and licensing, in regulatory institutions, in tax administration, for governors at the state level, among oil producers, and in Niger Delta communities. Representatives of political and military elites are believed to have accumulated hundreds of billions of Nigeria's oil dollars in foreign bank accounts.

4. The government is taking steps to improve transparency and accountability. Nigeria was the first country to endorse the Extractive Industries Transparency Initiative (EITI), and it intends to subscribe to the Stolen Assets Recovery (STAR) Initiative.[3] In contrast to other natural resource-rich countries, Nigeria has introduced anticorruption initiatives that potentially expose corrupt politicians

to the risk of being arrested and prosecuted. The late President Yar'Adua acknowledged that the fight against corruption will have to begin with the oil industry. In a December 15, 2007 interview with This Day newspaper, he declared that the government "has identified the Nigerian National Petroleum Corporation (NNPC) as one of the main focal points of his administration's war against corruption" and he admitted in reference to the NNPC that "it has not been transparent, and it is one of the most difficult agencies of [the] government to tackle because of vested interests of very powerful people in the country."

5. All advisors to Nigeria's policy-makers have consistently emphasized the critical importance of better governance in general and in the oil industry in particular, but initiatives have been implemented without much success. Currently, however, two particularly important efforts are under way. The first, a new petroleum law, is motivated by the government's stated intention to fundamentally reform the petroleum sector. The law has been drafted to completely overhaul sector governance and is currently being considered by the Parliament. The second government effort is targeted at reestablishing control over the Niger Delta, where most of the oil is being produced and where violence has severely disrupted oil production. In parallel, the government, in July 2009, offered a general amnesty to all militant groups in the region and a rehabilitation program in return for their giving up the armed struggle and turning in weapons. Niger Delta is one of the three key priorities of the administration of President Goodluck Jonathan who succeeded Umaru Yaradua and has continued with the post-amnesty program. The development of Nigeria over the next few years depends very much on the outcome of these two efforts. Whether these initiatives succeed, or whether they will be interrupted by the efforts of those who see their access to rents and political influence diminished, will depend on how the political dynamics evolve over the coming years.

II. Political Economy of Petroleum Management

6. Oil was discovered in Nigeria in 1956. Oil exports started two years later, and has contributed substantial revenues. Since 1970, incomes from oil have marked Nigeria as a country with huge development potential, having one of the world's largest deposits of hydrocarbons. Drilling activities are ongoing or planned in seven primary sedimentary basins, but most of Nigeria's current oil production is concentrated in the Niger Delta (see Azaiki 2007 and Ariweriokuma 2009). The government's policy was to achieve an oil reserve base of 40 billion barrels by 2010, but this target has long been undermined by the escalation of violence in the Niger Delta prior to the amnesty, controversy surrounding the latest licensing rounds, and uncertainties regarding the future tax regime because of the pending Petroleum Industry Bill (PIB). Thus, although Nigeria is rich in petroleum resource as a result of its geological endowment, the fact that it remains highly dependent on petroleum reflects its failure to manage these resources to develop a broad-based economy.

Sector Background

7. Nigeria is one of Africa's leading crude producers and in 2009 accounted for a fifth of African and 3 percent of world crude production (USGS 2009). The country is also endowed with sizable deposits of aluminum, gold, tin, iron ore, coal, niobium, lead, and zinc (Table 1).

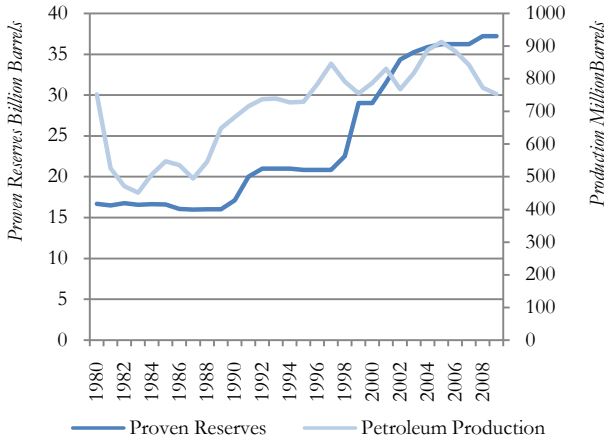
Table 1: Estimated Production of Mineral Commodities

Commodity		2005	2006	2007	2008	2009
Aluminum	metric tons	--	--	--	10,600	13,000
Gold	kilograms	30	50	180	200	100
Iron ore, gross weight	thousand metric tons	60	88	58	62	99
Lead:	metric tons					
Lead-zinc ore	metric tons	--	492,000	582,000	644,000	600,000
Metal, refined	metric tons	5,000	5,000	5,000	5,000	5,000
Tin:						
Gross weight	metric tons	1,700	1,818	229	240	230
Sn content	metric tons	1,300	1,400	180	185	180
Cement, hydraulic	thousand metric tons	2,700	3,300	4,700	5,000	5,000
Gypsum	metric tons	150,000	169,000	579,000	300,000	300,000
Coal, bituminous	metric tons	8,000	530,000	530,000	500,000	450,000
Natural gas:						
Gross	million cubic meters	59,285	82,064	84,707	80,604	64,883
Dry	million cubic meters	36,282	53,479	57,400	58,793	46,895
Petroleum:						
Crude	thousand 42-gallon barrels	923,500	869,197	803,000	768,800	780,348
Refinery products:	thousand 42-gallon barrels	64,900	39,400	18,012	33,147	15,771

Source: USGS 2009.

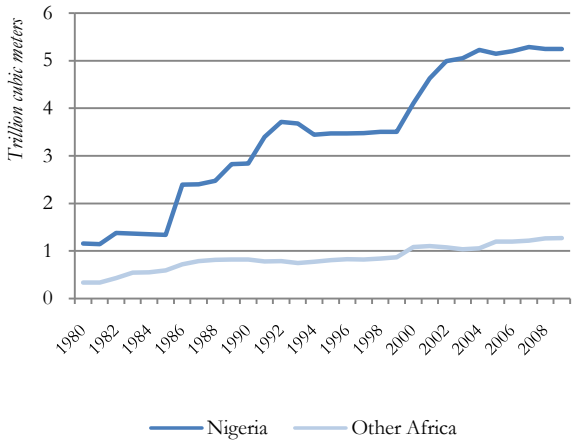
8. Oil and gas production is concentrated in 9 out of 36 states in Nigeria—Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers, with the five core states accounting for more than two-thirds of production. The Niger Delta basin is the largest along the West African coast; it has 246 production fields and 3,446 active wells. According to the estimates by BP (2010), Nigeria has proven reserves of over 37 billion of petroleum barrels and more than 5 trillion of cubic meters of natural gas in 2008 (Figures 1-2). Nonetheless, while proven reserves of petroleum have risen steadily, petroleum production fluctuates during 1996-2008 and notably took a dip from 900 million barrels in 2004 to below 800 million barrels in 2008. For natural gas, proven reserves increase substantially from 1.2 trillion cubic meters in 1980 to 5.2 trillion cubic meters in 2008 which is in sharp contrast with the modest increase in other Africa's proven reserves during the same period.

Figure 1: Petroleum Proven Reserves and Production (1980-2009)



Sources: BP 2010.

Figure 2: Natural Gas Proven Reserves (1980-2009)

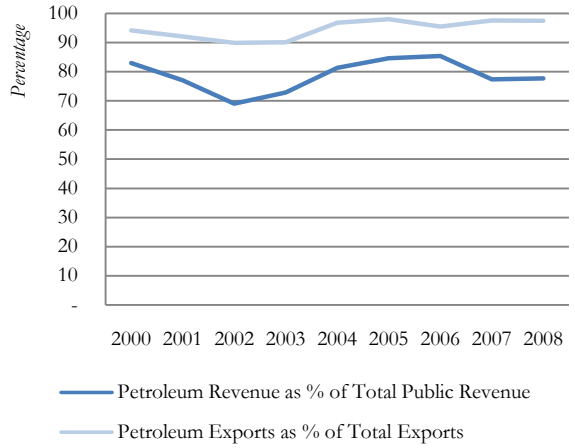


Sources: BP 2010.

9. Approximately 70 percent of Nigeria's oil production is accomplished by joint ventures (JVs) and another 25 percent by production-sharing contracts (PSCs). Five major international oil companies (IOCs)—Shell, Exxon-Mobil, Chevron-Texaco, Total, and Agip—currently are engaged in JV operations with the Nigerian government. In these JVs, the Nigerian government (via NNPC) holds 60 percent of the equity. The government has created many efforts to bring indigenous companies into oil production via marginal fields and other schemes, but so far they are not major players in the industry.

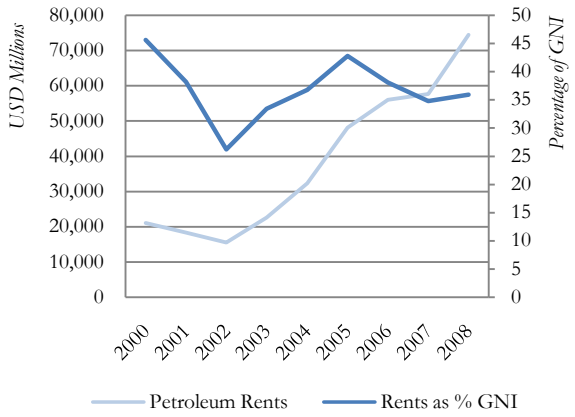
10. The Federal Government holds all mineral rights and is responsible for the allocation of exploration and development licenses. Oil revenue consistently accounts for over two thirds of public revenues. Similarly, oil and gas exports accounted for 97 percent of total exports in 2008-2009 (Figure 3). While rents have increased by almost fourfold from US$ 20 billion in 2000 to 47 billion in 2008, petroleum rents as a share of gross national income has generally decreased during the same period (Figure 4).

Figure 3: Contributions of the Petroleum Sector (2000-2008)



Sources: IMF 2009.

Figure 4: Petroleum Rents (2000-2008)



Source: Wealth of Nations 2010.

Political Economy Context

11. The Federal Republic of Nigeria (FRN) has an area of 923.800 sq. km. and 148 million inhabitants. There are 389 different ethnic groups, but the largest are Hausa-Fulani, Igbo, Yoruba, and Kanuri. The Nigerian economy is heavily dominated by oil and gas production and agriculture is the second economic activity representing 30 percent of the national GDP and employs two-thirds of economically active population, though the sector has deteriorated sharply since the 1970s due to inadequate governmental policies and the shift to an oil economy.

12. Nigeria was a British colony until 1960 when it became independent under a federal constitution. The country has experienced several military regimes (1966–79 and 1984–99) and a 30-month civil war (1967–70). In 1999, Nigeria returned to a democratic system and has since held three presidential and parliamentary elections, resulting in the first-ever handover from one civilian president to another in 2007.

13. In terms of political organization, Nigeria has a three-tier government. The country has a Federal Capital Territory, Abuja, and 36 states, which are subdivided into 774 local governments. The National Assembly is bicameral. For most of its history Nigeria has had a local government structure parallel to the central government. Nonetheless, the number of tiers and local governments, as well as the distribution of public revenue and responsibilities among these, has changed substantively throughout its history (Adedokun 2004). During the early colonial period, local-self government was institutionalized by the Native Administration Ordinance No. 4 of 1916. This led to the emergence of different practices of indirect rule across the three traditional regions - Eastern, Western, and Northern. In the 1950s, the Eastern and Western regions increased the number of elected councils responsible for local government, while the Northern region retained a system of local government based on the traditional authority of Emirs. These systems did not change significantly after independence.

14. As Diprose (2008) explains, in 1966 a military regime restructured the federation and created 12 states to give more autonomy to minority ethnic groups. The existing local governments were put under their control. However, there was no uniform system and the South-eastern states used a deconcentration model, while the predominantly Muslims Northern states continued to use the Emirs as the prevailing political and religious authority at the local level. In 1976, the government passed a comprehensive decentralization program and increased the number of states to 19 and the local government areas (LGAs) to 301. These were given administrative, political, and fiscal responsibilities later recognized by the 1979 Constitution. Local councils were elected by direct vote and had guaranteed funding from the Federation Account. After a new coup, the Babangida regime created new LGAs and states in 1987 and in 1991. In 1993 and in 1996, the General Sani Abacha regime also created new LGAs. The manipulation of LGAs responded mainly to the central government's need of gaining political legitimacy from traditional rulers, while efficiency considerations were only secondary. A number of violent confrontations were triggered as a result of the disregard to historic grievances with which some of the local governments were delineated and of growing perceptions of inequality among groups that resulted from the political division of areas (Diprose 2008).

15. In 1999, a new constitution was adopted following the organization established by General Abacha's 1996 decree. The constitution continued to favor the North in the number of its LGAs. The North has 20 states (including the Federal Capital Territory) and 429 local governments, while the South has 17 states and 355 local government areas (Asadurian 2006: 421). The constitution provides a detailed division of revenue collection and administration responsibilities to different levels of government. The constitution also specifies which level of government has rights over these revenues. Revenues are distributed on the basis of a principle of equality between sub-national units. Such principle has increased the demand for the creation of states since this is a means for various underrepresented groups to access revenues derived from the exploitation of oil and gas. At the same time, ethnic groups sought to have homogenous political units as a way of dealing with interethnic conflict. Thus, the current system results in a disparity between regions and in allocative distortions (Asadurian 2006: 421). As indicated in Table 2, multiple players are involved in the oil sector (Table 2).

Table 2: Major Oil Sector Players

State level	President, National Assembly, Governor, State House of Assembly, Judiciary, DPR, EFCC, RMACF, National Planning Commission, NAPIMS, FIRS, NEITI.
Local level	LG Chair, Local Council.
Non-state	NGF, PENGASSAN, NUPENG, NLC, CSOs, Militant Youth, and CBOs (in oil communities).
Mining companies	NNPC, IOCs, Indigenous Operators.
International players	Bilateral and multilateral institutions.
Traditional authorities	Traditional councils, chiefs (of oil producing communities).

a. Centralization of Rents and Regional Inequalities

16. Despite the long history of local governance, political, administrative, and fiscal decentralization in Nigeria still is moderate or low. The office of the president has retained strong federal powers, with limited oversight by the judiciary and national legislature (Ndegwa 2002). Arguably, the legislature has become more effective in the last few years in exercising oversight over budget approval and implementation as well as political appointments. The revenue system is characterized by high centralization and state and local government areas are dependent on intergovernmental transfers– statutory allocations in the Nigerian system.

17. Because of Nigeria's dependency on hydrocarbons, mining and petroleum taxes are the main source of governmental revenue. The Federal government controls the administration and collection of taxes levied from these activities. It also collects most of the main taxes, regardless of whether or not states and local governments have the right to their revenues. States and LGAs have a high vertical imbalance since most of their income is collected by the federal tax agency and through the Federation Account. The national government distributes federal allocations between states as follows: 40 percent divided equally among states, 30 percent proportionally to the state's population, 10 percent on the basis of land mass and terrain, 10 percent on social development factors, and 10 percent for internal revenue efforts. Oil producing states receive 13 percent of oil revenues generated in their territory. Local governments take 35% of the value of the Value Added Tax (VAT) Pool in addition to 20.6% of the Federation Account.

18. Nonetheless, several problems remain unaddressed, especially regarding the inconsistency between resource allocation and expenditure assignment, the low capacity of state and local governments, problems of coordination among different levels, elite capture, and cultural barriers to participation. As Adedokun (2004) points out, despite the clear demarcation of responsibilities and rights established by the Constitution, states and local governments still clash over sources of internal revenue. The rich-oil states, particularly along the Niger River Delta, have increased their demand for a greater share of oil revenue. Local governments lack well trained staff and have little technical capacity to collect their own revenue. The problems related to the mobilization of resources have negatively impacted the quality of public service provision and increased regional inequalities (Das Gupta 2003; Asadurian 2006).

b. Low Political Inclusiveness

19. Patterns of political leadership recruitment explain how democratic mechanisms have largely been functioning. In spite of formal rules prescribed in the political parties' constitutions for open and competitive selection of candidates, these directives are commonly ignored. Although the Independent National Electoral Commission (INEC) is empowered to supervise party primaries, it is unable to guarantee free and fair conduct of party primaries because it lacks independence. Powerful local politicians, backed by security agencies, control the party primaries for candidate selection. Such powerful local politicians (popularly known as the "godfathers") operate in alliance with national politicians to manipulate nomination processes. Through their influence on the INEC, favored candidates are "returned" as winners. These results have necessitated several legal challenges to election outcome. The gubernatorial elections in Anambra, Edo, Ondo, Ekiti and Osun were reversed and victory restored to opposition candidates by the courts. The judiciary has not been

entirely impartial in its judgments. In the Rivers State, the winner of the (Peoples Democratic Party (PDP) gubernatorial primary was replaced by the party before the elections. After the election, the Supreme Court pronounced that he was the rightful candidate and should replace the governor even though his name was not on the ballot.

20. According to independent observations, the outcomes of Nigerian elections are not true reflections of the voters' wishes. Because of distortions in the electoral process in the past and leaders may not reflect the true wishes of voters the former tend to have a limited sense of obligation to the electorate. It is not surprising, therefore, that each successive election since 1993 has been less fair than the one before it. The 1999 elections were considered acceptable because they marked the transition from military to civilian rule. The 2003 elections were more strongly criticized, but they were better conducted than the 2007 elections. All international observers described the conduct of the 2007 elections as unsatisfactory;[4] more than 1,700 petitions were filed against the declared results. However, the 2011 elections have been hailed by most observers as a marked improvement upon previous elections and relatively free and fair.

21. In the absence of sound elections, legislative bodies have not been responsive to the electorate. Instead, members of legislative bodies have been subservient to the executives to ensure that they are reelected. Nonetheless, more than two-thirds of the national legislators in 2007 were not reelected because the ruling party punished them for not supporting the tenure elongation bid of President Obasanjo. In addition, as Nigerian legislators want to keep their benefits, which are substantially higher than in alternative positions, they may not advocate welfare-enhancing policies if their positions could be threatened in the process. Such vulnerability contributes to a political environment that is not conducive to the emergence of principled legislators who would promote public welfare.

c. Rentier State Incentive Problems

22. The development challenges in Nigeria are complex. Broad consensus in the literature suggests that they are closely related to the management of revenues from the petroleum sector (see, for example, Eifert et al. 2003; Sala-i-Martin 2003). The political environment has been described as one in which individual politicians rely on nondemocratic mechanisms to sustain their power and private agendas have been important drivers for political decisions. Prevailing patron-client politics may explain why welfare-enhancing political solutions have been eschewed if vested interests would be threatened. The power of the political elite has been enhanced through the party machinery, which has made it possible to control the selection of new candidates and their behavior. The impact of the political elite's resource control and allocation of revenues on core democratic mechanisms is central to understanding the obstacles to development and governance failure. As Collier and Hoeffler (2008) explain, democracy will lead to growth in resource-rich economies only if checks and balances are substantially strengthened.

23. Challenges associated with the net export of nonrenewable natural resources—that is, "the resource curse"—can be explained in different ways. Humphreys, Sachs, and Stiglitz (2007) list a number of factors, including a myopic focus on cash transfers combined with weak negotiating power in regards to corporate interests, macroeconomic mismanagement (or the Dutch disease), volatility and inflation, insufficient investment in education, and patronage and spoliation. Although all

of these factors are worthy of examination for the case of Nigeria, Sala-i-Martin and Subramanian (2003), who analyzed the resource curse specifically as it applied to Nigeria, found that the country's poor development record is caused more by political economy difficulties than by macroeconomic factors. The incentive problems include endemic corruption and patronage, which are growing worse as executive control has become less dependent on democratic support.[5]

24. The federal government's responsibility for collection and redistribution of public revenues has strengthened its political relation to the states and local governments. In this context, the comparison between Nigeria and Angola in Heller (2007) provides some useful insights. Angola, through a clear centralization of power, has maximized revenues from the oil sector, but this goal has been elusive in Nigeria because "politics at all levels are extraordinarily pluralistic and competitive, and the control exercised by the federal executive in Abuja is limited, as state governors, legislators, private businessmen, and individual bureaucrats all eke individual advantage out of the political system. This results in systemic inefficiencies in both petroleum revenue generation and expenditure, as uncoordinated self-interested actors lead corrupt transactions and block attempts at consolidated reform." (Heller 2007) This points to important risks in Nigeria's petroleum governance with particular relevance to the revenue-generating aspect.

25. As political power increasingly became dependent on allocations of petroleum revenues and decisions in petroleum regulation, the social contract between politicians and the electorate became less critical for political control.[6] As a consequence, the electorate's perception of political accountability faded. These outcomes confirm the rentier state postulation- that in a resource-rich and dependent country revenue control could become the core source of political power—a challenge Nigeria has in common with several other petroleum-rich developing countries (see Ross 2001; Yates 1996).

26. Political power bolstered by petroleum revenues at the federal level has had ramifications beyond the three tiers of governance. Considering important nonpolitical aspects, the causality in the development challenges sometimes seem unclear. The alternative explanations behind weak development tend to point toward the political setup. For example, the institutional framework for petroleum governance has not been made strong enough to prevent conflict of interest. In particular, it has been difficult to ensure transparency and control over production figures and revenues. Every institution along the extractive industries value chain that potentially could prevent fraud is weak. Although these weaknesses allow for manipulation, it is clear that the necessary underlying conditions for what generally is perceived as best practice in petroleum governance are not in place. The responsibility is political.

27. As another example, one may predict that a developing country easily could be "captured" by the private sector. Firms have been able to influence the legal and regulatory stipulations through financial inducements. With stronger executive power, however, the private sector also became more state dependent. Success in business became increasingly dependent on partnership with political forces. Private companies, the oil sector included, have had to adjust significantly to a sometimes unpredictable sector governance environment.

28. As a third example, political power could be questioned based on allegations that representatives of the military benefit from access to oil revenues. These representatives allegedly

condone or are involved in organized petroleum theft (bunkering) with opportunities to gain substantially (see Gillies 2009; Huillery 2007; Onuoha 2008; Watts 2008). The entrenched interests of the long periods of military rule, combined with the military's inability to curb bunkering, demonstrate the military's continued influence on the government. Nevertheless, it is unlikely, that military influence on the government alone would explain the comprehensive and systematic weaknesses in sector governance. None of these theories rejects the assumption of political incentive problems—those developed through petroleum-financed patronage—as the main explanation behind the country's challenges in petroleum sector governance.

d. Access to Oil Wealth through Politics

29. The Nigerian politics we observe in the 21st century have evolved directly from the struggle by various interest groups to get access to oil revenues The prize in Nigerian politics is control of the federal government, which has power to grant access to the oil wealth. In terms of political power, positions in the oil ministry and NNPC the agencies which oversee the government's interests in the sector are next in line, and then followed by control over states and local governments. Horizontal checks and balances in oil politics have been hindered by executive control of petroleum resources, formally constrained by the constitution and informally constrained by political control over oil revenues.[7] How could the executive gain this much control?

i. Executive Control on the Sector

30. Since the 1970s when oil became prominent in the economy, the federal government has maintained a strong hold on oil and gas resources, passing many laws giving it exclusive rights to the deposits.[8] Among such laws are the Territorial Waters Act, Exclusive Economic Zone Act, Land Use Act, Oil Pipelines Act, Petroleum Act, Minerals and Mining Act, and National Inland Waterways Act. These laws are reinforced by some sections of the Constitution. While guaranteeing citizens protection from compulsory acquisition of their property by government without compensation, section 44(3) states:

> "Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in . . . Nigeria . . . shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly."

The federal government's control over oil and gas resources was achieved when Nigeria was ruled by a military regime. This regime did not invest the revenues to create conditions for sustainable development—what Collier (2008, 45) calls a catastrophic failure of public policy. Instead, the oil and gas resources became instrument of politics. Successive regimes could buy political support through the award of oil blocks, crude oil lifting contracts, and licenses for imports of refined products. Oil has been used to promote Nigeria's foreign policy through concessionary sales and credit arrangements to African countries, including Ghana, Kenya, Namibia, Niger, and South Africa.

31. The transfer of rights to the oil and gas resources to the federal government has had many consequences for politics in Nigeria. In particular, the federal center has been dominated over prolonged periods by sectional military and civilian elites who shaped the institutions to cement their

control. This control is expressed, for example, in changes in the revenue allocation formula, which progressively eroded the weight attached to derivation as a principle of revenue allocation. This control also affects the weight of other factors, such as population and landmass, which disadvantage the Niger Delta. Such control also affects the distribution of revenues to states and local governments, all of which affect what the different regions receive from the Federation Account. Oil is produced in only nine states, and the modifications of laws over the years gradually led to their economic and political marginalization and partly explains the conflict in the Niger Delta.

ii. Control of Appointments in Petroleum Management

32. Political power and access to petroleum revenues have been bolstered through control over appointments to positions in petroleum management. In line with the patronage-based political power, appointments into the petroleum ministry and NNPC are highly coveted. Appointments are closely monitored politically to see which ethnic group is gaining ascendancy and at whose expense.[9] The sensitivity of appointments into the top echelons of the NNPC was highlighted in July 2009 when the government announced dismissal of the corporation's top management staff and their replacements. Of the 13 people dismissed, 11 were southerners, and only 2 were northerners. Of the 11 new heads of departments announced in the reorganization, 7 were northerners and 4 were southerners. Perceived lopsidedness of the top management appointments at the corporation has been corrected and made more ethnically plural. This generated many adverse comments from southerners, especially those from the Niger Delta. In this context, the Nigerian constitution has provisions for the reflection of the "federal character" of the country in all public sector appointments, which essentially means balancing the different ethnicities and regions as much as possible.

iii. Corruption

33. From inception, oil production in Nigeria has been associated with a widening of the income gap as well as increasing poverty and corruption of state institutions. Weak control on petroleum governance made corruption possible (see Gillies 2008 for a review). Rent-seeking in regulation and at political levels could continue for decades. According to international rankings, Nigeria's corruption level is perceived to be among the highest in the world. It constantly was ranked among the bottom three of Transparency International's Corruption Perception Index (CPI) from 1999-2005, after which its ranking began to improve. Particularly the 2010 CPI report indicates that Nigeria was ranked 134 of the total 178 countries (Transparency International 2010). Perceived improvements are the result of strenuous efforts by the Economic and Financial Crimes Commission (EFCC) to arrest and prosecute those guilty of advance fee fraud, money laundering, bribery, and other financial crimes. The EFCC has strategically targeted high-profile political office holders, especially state governors, who frequently were accused of money laundering by the President and Minister of Finance. The former governors of Bayelsa and Plateau were impeached following the EFCC's charges of money laundering, although the methods by which this impeachment was accomplished fell short of strict constitutional and legal stipulations.

34. Following the government's removal of the EFCC chair, Nuhu Ribadu, in December 2007, the anticorruption fight appears to have weakened. U.S. Secretary of State Hilary Clinton alluded to

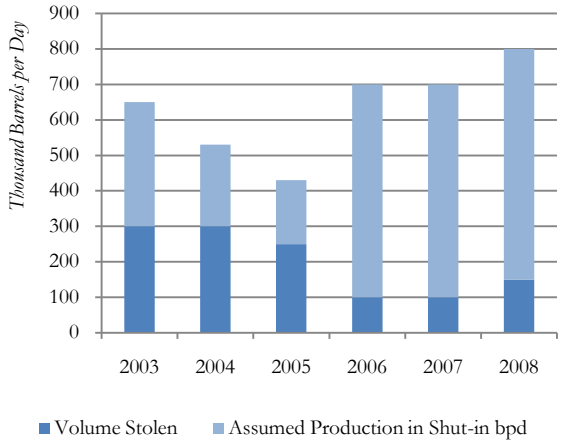
this on her visit to Nigeria on August 12, 2009, when she remarked that the U.S. government wants "to see the reinstatement of a vigorous corruption commission" and that "the EFCC, which was doing well, has kind of fallen off in the last one year" (see *The Nation* 2009, 1–2). The EFCC has, however, countered by releasing a list of 56 people who allegedly stolen N243 billion (US$1.62 billion) in the last five years.[10] Of the 33 high-profile cases pending in courts, only 11 were handled by Nuhu Ribadu, whereas the remaining 22 were instituted by Farida Waziri, the current EFCC chair.[11]

35. The anticorruption agenda shows some signs of progress, but other evidence suggests that more could be done. For example, of 11 former governors accused of embezzling a total of N55.513 billion (US$370 million), 10 are out on bail, while their cases are stalled by delaying tactics of their counsels. The only person convicted thus far (of stealing N4.4 billion or about US$30 million) was fined N3 million (US$20,000), which the EFCC has appealed. Furthermore, while Halliburton and Siemens officials in the United States and Germany, respectively, have been convicted for bribes given to Nigerian officials, those involved in Nigeria are yet to be identified and prosecuted.

e. Access to Oil Wealth through Nonpolitical Channels: Bunkering

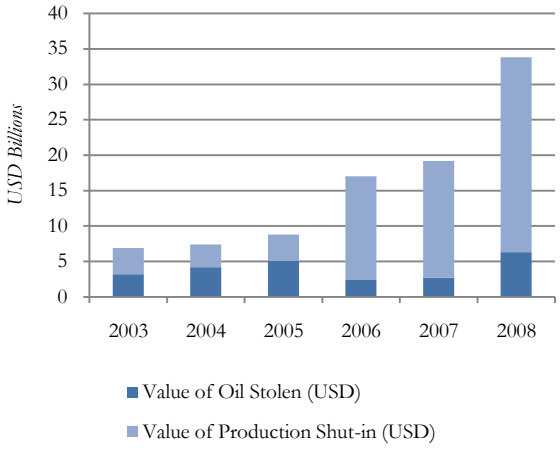
36. Although oil revenues might be lost in corruption, they disappear in other ways, too. This is relevant to understand continued governance failure because those who benefit from revenues will be less likely to demand changes in politics. Bunkering is a major source of oil revenue losses, and the activity is linked to militants in the Niger Delta. The term refers to various forms of oil theft from pipelines or export terminals. Because of the nature of the bunkering activities, precise figures are hard to obtain. A speech delivered by Petroleum Minister Odein Ajumogobia on behalf of President Yar'Adua in mid-2007 put oil revenue losses through vandalization of oil and gas pipelines at about N8 billion (about US$6.7 million) daily and crude oil losses at as much as 625,000 barrels of crude daily, more than 25 percent of Nigeria's OPEC export quota.[12] By mid-2009, nearly half of Nigeria's OPEC quota of 2.2 million barrels of crude per day could not be produced for export. It was either lost to shut-ins, spilled or stolen. Other estimates vary. Cole (2008), for example, has estimated that Nigeria loses between $4 billion and $18 billion annually to illegal bunkering alone (see *Financial Times* 2008). Davis (2009) assesses that as much as 800 thousand barrels a day were lost through bunkering or production shut-ins in 2008, which were equivalent to $34 billion dollars (See Figures 5-6). This author explains that commodity prices and violence are highly interlinked in the context of the Niger Delta. As prices rise, both violence and bunkering aggravate. Moreover, increasing bunkering and oil sabotage actually represents a serious threat to national and environmental security in Nigeria (Onuoha 2008). In 2010, many onshore operations remained suspended in the western Niger River Delta.

Figure 5: Estimated Volume of Stolen and Assumed Production in Shut-in (2003-2008)



Sources: Davis 2009

Figure 6: Value of Stolen and Lost Production (2003-2008)



Sources: Davis 2009

i. Small-Scale Petroleum Theft versus Organized Crime

37. Losses occur in different ways and volumes. Small-time operators who tap into oil pipelines are not confined to the Niger Delta. They are spread all over the country where the pipelines pass. Criminals trying to steal refined petroleum products for distribution through informal retail outlets have caused periodic pipeline accidents in Lagos and other areas outside the Niger Delta.[13] Numerous small-scale crude oil thieves also steal the oil for refining in illegal local refineries. Between June and July of 2008, the military Joint Task Force (JTF) had destroyed 111 illegal refineries that were located "in almost every village in Bomadi and Burutu Local Government areas" (This Day 2008, 1).

38. Although bunkering is a large problem for the government, those involved seem to defend the crime by reference to low political accountability. Asari Dokubo, leader of a militant gang in Rivers State, is alleged to steal crude from Shell pipelines for refining locally and for sale to barges and ocean tankers. He claims that "the oil belongs to us, we're not stealing it. It is the Nigerian state stealing our oil from us" (IRIN 2008, 1). Nevertheless, the resource control conflict also provided opportunistic excuse for militants and criminal gangs to engage in oil theft, the proceeds of which they used to procure arms to perpetuate themselves and resist the security agencies.

39. Those engaged in large-scale oil theft break into pipelines in the Delta's mangrove swamps. They load stolen oil into smaller barges and ships that then go on the high seas to load huge ocean tankers. Another form of large-scale bunkering is the loading of crude in excess of approved or rightful quotas by licensed operators (Azaiki 2006, 268). Given the highly visible nature of oil theft, it would appear that there must be either payoffs to or participation of security forces.

40. As the bunkering gets large and organized, it has a clear demand side. Large-scale stealing of oil by large ocean tankers involves international organized crime groups, which buy the oil and take them to refineries abroad for refining. The payoff from this type of bunkering must be exceedingly profitable to keep people investing in such a risky venture. For instance, in September 2007, the

Navy announced that it had seized 260 vessels used for illegal bunkering (Leadership (Abuja) 2007). On July 11, 2008, the JTF arrested a tanker (MT Lina Panama) owned by a Greek company called Corinthians laden with 150 metric tons of Nigerian crude oil suspected to be stolen from a Nigerian Agip Oil Company's facility. The federal government has blamed noncooperation of the international community and lack of capability of Nigeria security operatives for the persistence of large-scale bunkering. The Minister of State for Petroleum Resources, Odein Ajumogobia, told newsmen in Abuja on July 26, 2009, that satellite images prove collusion of an international criminal cartel and that Nigerian security ought to be able to stop the small barges that feed the ocean tankers on the high sea (This Day 2009, 10).

41. Indeed, as bunkering has persisted and grown profusely over the years, many Nigerians believe that the security agencies, especially the Navy, may be aiding and abetting illegal bunkering (Gillies 2009; Huillery 2007). According to a former presidential aspirant and presidential adviser, a posting to the Niger Delta is highly coveted by the troops who see it as an opportunity to become enriched through escorting stolen products.[14]

42. In 2003, the issue of informal excess lifting of crude oil at export terminals was brought before the National Assembly when the chair of the House Committee on Petroleum claimed that the country was losing about N100 billion annually from such activities by the international oil companies (IOCs) (Azaiki op. cit, 267). These losses pose significant risk, particularly given weaknesses in the system of checks and balances in the various institutions monitoring the oil industry, including security.

ii. Government Response: From Tolerance to Incapacity?

43. The government falters to deal decisively with the extensive bunkering probably due to the payoffs from the bunkering, which are spread quite broadly among entrenched interests in the oil communities (see Onuoha 2008; Watts 2008). The prevailing violence in the region also constrains military action. The violence is perpetrated in small communities where people are forced to join criminal gangs for sheer survival, acquiesce to illegal bunkering for self-protection, or flee the communities for safety. Security operatives explain that the government is restrained from acting against the different forms of illegal bunkering because of the potentially high secondary damages, especially loss of innocent lives. Not even those in positions of authority at the local level can escape the intimidation and violence used by those engaged in illegal bunkering. Traditional rulers and even local government chairs are pressured to succumb to the prevailing order. If these officials fail to acquiesce, bunkerers can incite rebellion in the community or attempt to assassinate them.

44. For example, Futek Zikoregha, Chair of Forcados local government, one of the oil-rich communities of the Delta State, was forced into hiding after bunkerers incited the community against him. His story reflects the enormous risk individuals face when motivated to challenge powerful criminal gangs engaged in oil theft. Zikoregha had granted an interview to The Nation in which he denounced bunkerers in his Local Government Area and warned that he would disclose their identities. The kingpin of the bunkerers bribed the community to remove him from office. He started receiving death threats and feared that he was being trailed. He had no confidence that the state could protect him and he went into hiding by May 2009. In his words, "the soldiers and the

community leaders are involved; in fact, it is they that are the masterminds of these things" (The Nation 2008, A13). He points specifically at soldiers' involvement in bunkering near River Ramos.

f. Niger Delta Conflict

45. The Nigerian population has reacted against what is widely perceived as governance failure in both nonviolent and violent ways. Citizens have demonstrated and gone on strike, academics have published harsh criticisms for decades, nongovernmental organizations (NGOs) have awakened locally and internationally, and the media has debated oil politics. The international press has given significant media attention to Niger Delta violence.

46. Conflict follows from poor governance not only nationally but also in the states and local governments of the Niger Delta region. The people of the Niger Delta face severe environmental degradation. In 1991, when the world average for gas flaring was 4 percent, Nigeria's rate was 76 percent despite enactment of ambitious legislation to regulate gas flaring and venting.[15] Nigeria is the second biggest gas-flaring nation in the world after the Russian Federation. Its 23 billion cubic meters of flared gas represents about 13 percent of the world's total (Environmental Rights Action/Friends of the Earth Nigeria, 2008). Acid rain caused by gas flaring pollutes the air; contaminates water sources; destroys vegetation; and causes leukemia, asthma, and other respiratory diseases. It is estimated that gas flaring costs Nigeria $2.5 billion annually (Elaw Advocate 2006).Gas flaring and other oil-related pollutions have destroyed traditional livelihoods such as farming and fishing, the main occupations of the area's citizens (Ibeanu 2000).

47. The socio-economic situation in the major oil producing states in the Niger Delta region has long been dire with typically high unemployment rates, specifically 18, 28 and 39 percent in Rivers, Delta, and Bayelsa respectively (World Bank, 2011a).[16] In reaction to extreme poverty, high levels of youth employment, environmental degradation, poor service delivery, lack of accountability of governments and officials, and rigged elections, which prevent nonviolent change of leadership, violent uprisings among the youth have come as no surprise.[17] The violent conflicts in the region have been the result of perceived material deprivation, demand for more control over oil resources and psychological frustrations borne out of helplessness within the oil communities.[18]

48. Despite massive military operations against the Niger Delta militants in June–September 2009, it became obvious that the challenge could not be solved through the use of force. Opposition against the government is deep-rooted in the communities that account for a significant share of the population. Widespread disaffection sustained continued violence, which paralyzed oil operations while military action was taken. In addition to this violence, oil is spatially concentrated in a terrain that is difficult to control. The Niger Delta's mangrove swamps are water logged. The creeks and estuaries are not easy to navigate, and security arrangements are difficult to sustain. Oil and gas pipelines along thousands of kilometers on the soil's surface are exposed to easy looting. In the absence of effective surveillance, the pipelines are vulnerable to vandalization and bunkering. In turn, these resources are used to sustain insurgent groups.

i. Uprisings against the Government

49. The struggle against what the communities perceived as exploitation by the government started in the 1990s. Environmentalist and political activist Ken Saro-Wiwa internationalized the agitation for fairer distribution of oil wealth and environmental protection (PEFS 2004), when he led the Ogoni people to publish the "Ogoni Bill of Rights." According to Henry Okah, Movement for the Emancipation of the Niger Delta (MEND) leader, the uprisings against the oil sector governance started peacefully, while the "resort to arms by indigenes of the Delta is borne out of the frustration and the heavy handedness of the Nigerian military and successive governments" (Next 2009, 2). Militant youth mobilized their communities to protest against inequities in the distribution of benefits of the oil industry.[19] The mobilization led to the 1998 Kaima Declaration, initiated by Ijaw youth activists in the Niger Delta, which unequivocally attributes the crisis of development and spiraling violence in the Niger Delta region against the policies of the Nigerian State and the IOCs.

50. The Kaima Declaration unionized communities against the government and the IOCs—several ethnic groups in the region have been united under its banner to fight the deprivation of the region (Turton 1997). Among the demands in this declaration are the right to self-determination, abrogation of some laws, such as the Land Use Decree and the Petroleum Decree, which are seen as particularly unjust, compensation for environmental degradation, withdrawal of transnational oil companies from the Niger Delta until a better solution for host communities is implemented, and demilitarization of the Niger Delta, including the removal of military task forces. In many ways, this declaration explains the political foundation of the violence that has taken place over the last decade.[20]

51. Violence in the Niger Delta has had a significant impact on oil production levels. In areas controlled by armed gangs—many of them part of MEND—government officials were driven off creeks where the pipelines pass, farm tanks, and export terminals, which enabled even licensed operators to lift crude unrecorded (see Hanson 2007). Violent acts, either directly targeting oil installations or indirectly affecting operations by making production too dangerous given incidents of inter- or intracommunal violence close to oil installations, cause some wells to be shut-in. These shut-ins lasted from just a few days to long periods of time. Shell, for example, has not been able to produce oil in Ogoniland since the execution of Ken Saro-Wiwa. For oil companies that recruit a majority of their workforce locally, it also has been a challenge that some of their employees sympathize with the militant groups.

52. The Niger Delta thus has constructed a radical identity in its struggle against marginalization in the Nigerian federal system and for resource control. It has enhanced group solidarity in its quest for a fair deal in Nigeria's distributive federal system. It has also emphasized the need as well as enhanced opportunities for reform. However, in the process, the Niger Delta has disturbed the hegemonic alliance among major ethnic groups for control of rents from Nigeria's oil and gas industry, as well as its ability to control its share of the rents. At the same time, Niger Delta uprisings have led to spiraling violence that is beyond the control of the state and local authorities. This is partly because defense and security are federal responsibilities and the federal government controls the police and the army.

53. The government's response to varied demands from the Niger Delta groupings has included a mixture of repression of protest activities and, more recently, reconciliation policies. Many reports have documented incidents of brutal repression of protesters against oil companies in the Niger Delta (HRW 1995, 1999, 2003; International Crisis Group 2006). The police, Special Security Forces, and the JTF are accused of violent acts, including shooting protesters, mass attacks of cities and villages, arson, and rape. Intended to deter further protests by the people of the oil-producing communities, such severe repression has escalated violence with militant youth seeking arms, attacking oil installations and facilities, and kidnapping IOC staff.

ii. A Complex Relationship between Local Politicians and Militant Groupings

54. Militant groupings may have built on unfair petroleum sector governance and few employment opportunities. For example, armed gangs were raised and nurtured for electoral purposes. Human Rights Watch indicated that the emergence of armed gangs in the Rivers State was directly linked to the return to pluralistic politics since 1999 when rival politicians armed idle youth to generate support by force.[21]

55. The armed gangs that perpetrated electoral malpractices turned to bunkering on a small scale after the elections, and thus, their opposition's political character may have been watered down by the more rewarding looting, which was defended by references to unjust petroleum governance. Their numbers grew rapidly as a result of the high profits derived from bunkering, as several gangs emerged to share the profits. Intra-community violence increased when IOCs made direct payments to some communities to calm uprisings. The state's intervention to quell the violence was ineffective because of inadequate security personnel and equipment, giving the impression that the government was condoning the violence.

iii. Alternative Strategy to Peace in the Niger Delta: From Repression toward Compromise

56. The government has sought alternative solutions to the violence and uprisings in the Niger Delta through repressions, transfers of revenues, and political compromise. The results have been mixed at best. When it comes to transfers of revenues, the federal government has tried to administer development funds directly to the regions. The recent profound macro and fiscal reform initiatives at the federal level have not been matched by commensurate reforms at the state level. Lagging reforms and misaligned political incentives contribute to the dismal failure of Niger Delta state governments to translate their revenues into services for people. In 2005, the four main oil-producing Delta states (Rivers, Bayelsa, Delta, and Akwa Ibom) jointly received approximately 90 percent of all derivation oil payments (about N265 billion or US$2 billion equivalent), but they continued to perform poorly in service delivery according to human development indicators (Freinkman 2007).

57. Although the government claimed improvements in livelihoods in the region, the actual impact has been limited because of administrative weaknesses and the limited accountability to local communities of such programs. Examples include the establishment of the Oil Mineral Producing Areas Commission (OMPADEC) in 1992 and the Niger Delta Development Commission (NDDC) in 2000. OMPADEC failed because it "was run like another government corporation, appointed by and accountable to the federal centre only" (Oguine). Corruption was rampant in the management

of OMPADEC's funds. Contracts were overinflated or not executed after upfront payment of mobilization money, which ranged between 30 and 70 percent.

58. With a mandate to design and implement a master plan for the physical development of the Niger Delta region and ensure that petroleum-funded projects are not misused, the establishment of the NDDC was a step in the right direction. The commission would derive its funds from three main sources: the federal government, oil-producing and gas-processing companies; and an ecological fund. In reality, however, the NDDC has not been fully funded as intended, and thus it does not have the resources to fulfill its mandate.[22] There are allegations that corruption is also a problem within NDDC.

59. As another example, the president initiated a rapid intervention in April 2006 by launching a 50-member Consolidated Council on Social and Economic Development of Coastal States of the Niger Delta, which included all the governors of the affected states. Part of the council's short-term program was job creation for the youth of the Niger Delta. It was envisaged that 20,000 new jobs would be created for citizens of the Niger Delta in the armed forces, police, and NNPC. To provide opportunities for technical skills acquisition for area youth, plans called for the Petroleum Training Institute to be upgraded and a polytechnic facility to be built in Bayelsa state. The program also outlined infrastructure projects that would be implemented in the short and medium term to enhance economic activities in the region. Because of the 2007 electoral campaigns and regional violence, however, not much was achieved before the change in the federal executive office.

60. Repeated failure of the government's community development efforts as a solution to the Niger Delta challenge increased tension. In an interview conducted by Nicholas Shaxon with Alhaji Mujahid Dokubo-Asari, a commander of one of the militant groups in the Delta area, he confirmed the challenge and claimed that "[o]il companies and the Government have tried one 'community development' after another, yet the anger just keeps rising. . . . Dialogue will lead us nowhere" (Shaxon 2007, 192–94).

61. In July 2009, the government announced an amnesty to militants in the Niger Delta effective from August 6, 2009, for 60 days, and most militant leaders embraced the offer. At the end of the 60 days, 15,000 militants had surrendered their weapons and registered at camps established for the purpose. The post-amnesty program for the militants included a monthly payment of N65,000 as well as encampment and training for vocational and technical skills needed to participate in the oil industry. In addition, the NDDC announced a Nigerian Technical Aid Corps (NTAC) scheme for unemployed graduates in the Niger Delta, which guaranteed each participant N45,000 for a maximum of two years. To address the development challenges of the region, the government also announced massive infrastructure contracts for the Niger Delta area. It appears the government's post-amnesty program has underestimated the numbers of militants and it has not adequately responded to the demands for rehabilitation and reintegration. The infrastructure development has lagged behind because of the delay in starting projects. The amnesty program was revitalized by President Goodluck Jonathan.

62. The amnesty program, however, also has critics. Henry Okah, putative MEND leader, insisted that the demands of the group "must be brought before the National Assembly for consideration" before the amnesty could work (Next 2009, 3). In the months that followed, there

were positive developments, including several ceremonies of militants laying down their weapons. By January 2010, however, the outcome of the amnesty initiative appeared uncertain and it was unclear how well the government would keep its part of the promises. A significant number of Niger Delta representatives remained in detention, and the Ijaw Council for Human Rights claimed that 80 percent of the estimated cost for the amnesty program went to consultants and contractors, leaving ex-militants with just 20 percent for support and employment. The many initiatives from the government that seemed to fail (including the Niger Delta Development Board, OMPADEC, NDDC, and Niger Delta Summit) have almost eliminated all trust in the government. Critics describe the amnesty program as a one-sided intention to secure oil operations with minimum solutions for the communities. In early February 2010, MEND fractions declared that they had been disillusioned by the government's amnesty initiative and would resume hostile attacks on oil installations. They made good the threat as bombs went off to disrupt the national independence anniversary celebrations in October 2010 in Abuja. The peace remains fragile and violence will erupt if the government's promises again are not kept.

III. Natural Resource Management

63. The previous section identified political economy vulnerabilities that negatively impact natural resource management at different stages of the extractive industry value chain. Nigeria does not develop from as much of its revenues as it could. Numerous studies have pointed to deep-rooted corruption and misuse of power to the exclusive benefits of some groups at the cost of society at large. Governance challenges are difficult to identify and analyze, however. They require insights into complex power alliances, which cut across formal structures, hierarchies, or sectors. This study has not sought evidence against any group or individual, but rather has considered how incentive problems in petroleum sector governance are reflected in the government's choices and responses to petroleum-related challenges.

64. Many of the development challenges in Nigeria are the results of past policy choices in the evolution of petroleum governance. The comprehensive reform of the petroleum sector proposed by the government is an effort to move out of an adverse equilibrium. The likelihood of success may depend critically on the following four petroleum-related mechanisms discussed: (i) how access to oil revenues may have affected politics and core democratic functions; (ii) how the political elite has gained access to oil wealth through politics; (iii) how groups other than the political elite have claimed access to oil wealth; and (iv) how the reactions from those without access to oil revenues have been held largely ineffective. These mechanisms interact and appear to explain why it has been difficult to implement best practices in petroleum sector governance and make the Nigerian society benefit more fairly from oil revenues.

Extracting Resource Wealth

a. Award of Contracts and Licenses

65. The process of licensing is an important factor in sector governance. Before the Obasanjo administration (1999-2007) introduced an open competitive bidding system in 2000, the head of state or minister awarded oil blocks on a discretionary basis. Block fees were usually negotiated. It was normal for the winners of oil blocks to be charged less than its value and to resell at a margin. The 2000 round was significant only for the introduction of a new policy on marginal fields. The marginal fields were reclaimed from the IOCs, which had neglected to develop them because they were considered uneconomic. After a prolonged evaluation process, in February 2003, 24 marginal fields were awarded to 31 Nigerian companies (Ariweriokuma 2009), five of which belonged to state governments (Vines et al. 2009).

66. In 2005, the government organized an auction designed in line with international best practice (Olsen 2005). The government invited Brazil, Norway, the United Kingdom, and the United States to observe the licensing round and introduced the local content vehicle (LCV). It was mandatory for each award winner to select one Nigerian partner as the LCV, which would have a 10 percent interest to increase local participation in the oil sector. The goal was to make the IOC (operator) train the LCVs and thereby transfer technology that would make local oil companies capable of competing in the industry.

67. However, the auction did not proceed as smoothly as intended (Olsen 2005). Among the flaws were tardy release of new production-sharing agreements (PSAs) and rules on how to select the LCV. The government also reserved choice oil blocks for some Asian governments (China; India; Taiwan, China; and the Republic of Korea) with which it had negotiated oil-for-infrastructure deals. Preferential conditions for Asian oil companies and forcible selection of LCVs lead to the withdrawal of many established IOCs, which effectively boycotted the bidding process. Subsequently, the 2006 mini-round and the 2007 round also provided preferential treatment of the Asian companies willing to commit to infrastructure investments.

68. In 2008, following protests by losers in the bidding process, President Yar'Adua set up a probe into how the 2007 bidding was conducted. After the president received an interim report, the investigation was extended to cover the 2005 and 2006 rounds. The House of Representatives also tasked an ad hoc committee to investigate the matter. During the public hearings conducted by the committee, it came to light that despite the government's commitment to openness and transparency, some oil blocks were awarded on a discretionary basis. The rights of first refusal that were granted to some firms in return for their investment in infrastructures were too advantageous. Moreover, some of the companies that benefited from the grant of first right of refusal did not deliver on the infrastructure investments. Irregularities also were documented in the payment of signature bonuses and other fees. Following these revelations, the president attempted to cancel the awards to those companies.

69. The case of the Korea National Oil Corporation (KNOC) is interesting in this context, although the case is subject to multiple interpretations. In 2005, KNOC was awarded two offshore deep-water oil blocks. The Nigerian government had negotiated with the Korean government to

grant KNOC the right of first refusal on these two oil blocks in return for a 745-mile gas pipeline from the Niger Delta to Abuja, construction of a railway line from Port Harcourt to Maiduguri, and 2,250 megawatts of power generation. It was later revealed that only $9 million out of the $240 million signature bonuses had been paid and that no progress was made in the construction of the infrastructure. President Yar'Adua annulled the award of the two oil blocks. KNOC went to a Federal High Court in Abuja to challenge the revocation on the grounds that it had applied for delayed payment of the balance of the signature bonus and that the president lacked the authority to cancel its licenses. The court found in KNOC's favor on August 20, 2009, declaring that the Petroleum Act vested the power to revoke oil block licenses in the minister of petroleum and not the president. KNOC's lawyer, Robert Clarke, said the implication of the judgment "is that the international community will now have confidence to invest in Nigeria" (The Guardian 2009, 72). The government appealed this judgment. By December 2009, the case was adjourned for out-of-court settlement, as diplomatic efforts were ongoing to resolve the dispute amicably.

70. The governments' objectives to diversify the IOCs and promote competition of local companies have often been difficult to reconcile. The discretionary award to Nigerian companies aimed to promote local entrepreneurship in the oil and gas industry has thus far undermined the competitiveness and transparency of the bidding process. The bidding process attracted a large number of indigenous applicants seeking opportunities for arbitrage. Yet some of those independent companies that received blocks have been unable to fund exploration or find foreign technical partners to explore on a sole-risk basis. Thus, attempts at reforming the licensing process had mixed results in terms of instituting openness and transparency and of promoting Nigerian participation.

b. Regulation and Monitoring of Operations[23]

71. At inception, Nigeria had minimal government regulation of the oil industry in Nigeria (Nwokeji 2000). IOCs operated the concessions and paid appropriate taxes, and oversight was vested in a one-man unit in the Mines Division of the Ministry of Lagos Affairs, later part of the Ministry of Mines and Power (MMP). To increase control over the industry, the government passed the Petroleum Act in 1969, which stipulated that only companies registered in Nigeria could participate in the oil industry and reserved the right of the government to acquire shareholding in all new concessionary contracts (Omoregbe 2001).

72. Nigeria joined the Organization of Petroleum Exporting Countries (OPEC) in 1971, the same year the Nigerian National Oil Corporation (NNOC) was established. A law was passed that required Nigerian ownership of at least 60 percent of equity stake in all foreign businesses, and the national oil company would manage the ownership share. The Department of Petroleum Resources (DPR) was established to regulate the industry.

73. The development in Nigeria toward more state control corresponded to policy choices in many other petroleum-rich countries at that time. In Nigeria, however, the performance of the state-owned oil company (NNOC) and the regulator (DPR) were hampered by political interference, in particular by the MPP, the then-supervising ministry (Turner 1978; Nwokeji 2007). In 1979, the government transformed the NNOC into the powerful NNPC.

74. The DPR is supposed to be an independent regulator, but it has not been able to play this role in practice. Its mandate includes supervising all petroleum industry operations in the country; enforcing environmental and safety regulations; keeping accurate records on operations (reserves, production, and exports of products); processing applications for licenses, ensuring timely and adequate payments of all rents and royalties; and monitoring the local content policy. In reality, DPR has been treated just like another arm of the NNPC subject to its directives, those of the Ministry, and the presidency. It also is hampered by human and financial capacity constraints. As a result, DPR often fails to perform its functions effectively.

75. The National Petroleum Investment Management Services (NAPIMS), a subsidiary of NNPC, also plays a major role in oil sector governance. NAPIMS is responsible for monitoring and rationalizing the budgets of JVs, promoting Nigerian content, and ensuring that all partners in Joint Ventures (JVs), Production Sharing Contracts (PSCs), and (Service Contracts (SCs) comply with their contract terms. NAPIMS processes JV contracts for approval by the NNPC and the government. In this role, like the DPR, the subsidiary is subject to pressures from the IOCs, NNPC, government officials, and politicians chasing contracts.

Taxing Resource Wealth

a. Collection of Taxes and Royalties

76. Nigeria remains highly dependent on petroleum revenues (Okauru 2008, 8). These revenues are composed of crude oil sales receipts, petroleum profits tax (PPT), royalty, upstream gas sales, Nigeria liquefied natural gas, flared gas and pipeline fines, domestic crude, and signature bonuses. Revenue from crude oil sales and PPT and royalties are the most important sources of revenue, contributing to almost 42 percent and 40 percent of total revenues in 2005, respectively.[24]

77. Three key institutions are involved in oil revenue collection, specifically the NNPC, Federal Inland Revenue Service (FIRS), and the DPR. The NNPC receives and markets government's share of crude production from IOCs, which amounts to nearly 60 percent of the crude produced in the country. It also receives allocations for the declining local refineries, most of which it also sells. The NNPC allocates lifting contracts, which, as NEITI audit reports have shown, do not always follow advertised criteria or guarantee competitive pricing. The NNPC's handling of crude sales and remittances of proceeds have pitched it against the Revenue Mobilization, Allocation, and Fiscal Commission (RMAFC), which monitors accruals into the Consolidated Revenue Fund (CRF). RMAFC alleges that NNPC does not remit all revenues, an accusation supported by relevant national legislative committees.

78. FIRS is responsible for collecting petroleum profits tax from oil companies; DPR is responsible for royalties, gas flare penalties, rents, and other levies; and NNPC is responsible for revenue from crude oil sales. These institutions, however, demonstrate a persistent lack of coordination. According to the NEITI audits, collaboration between physical measurement and financial assessment is weak.

79. The practices for handling signature bonuses from the 2005 bid round are seen as nontransparent. Receipt of all signature bonuses could not be confirmed. The practices for record keeping by the DPR are ineffective. PPT payments by oil companies are based on unregulated self-assessment that is largely accepted by FIRS without validation. To be more effective, FIRS requires significant capacity building. Traditionally, a major challenge has been that the NNPC has not been forthcoming with the information it holds. It is known to be opaque and nontransparent and efforts to force it to follow a disclosure regime have not succeeded. FIRS suffers greatly because of this.

80. The "revolving door" phenomenon—in which most Nigerian oil sector regulators are senior executives in the industry or are seconded to work in the regulatory agencies while on leave from their IOCs—further weakens the integrity of regulation and tax administration. These executives, therefore, are more loyal to the operators than to the state.

i. Fiscal Regime

81. The downstream industries in Nigeria are subject to the normal Companies Income Tax Act (CITA), and the upstream industries in Nigeria are subject to the Petroleum Profits Tax Act (PPTA) of 2004, which applies exclusively to the oil sector. Upstream companies also are subject to royalty, signature, and production bonuses.

82. The oil producers pay royalties on the value of oil extracted. The rates of royalty vary by the nature of contractual arrangement (PSC or JV), the type of drilling (onshore or offshore), and the depth at which oil is available. They range from 0 percent (for PSCs operating offshore at the depth greater than 1,000 meters) to 20 percent (for onshore drilling).[25] Both the PSCs and JVs are subject to the Petroleum Profits Tax.[26] This tax is applied on profits minus expenses and allowable deductions (interest and royalty payments, depreciation of capital, and so on). The statutory tax rate is 85 percent, which is quite high. Special tax rates, however, apply to new companies and PSCs. For JVs, a series of incentives also are available.[27]

83. Thus, while the law provides for a high tax rate, this rate is combined with a series of concessions and incentives depending on the nature of contract and the stage of production. To complicate matters, most oil companies have entered into a stabilization agreement with the government lasting for 15 to 30 years, thus making them immune from any subsequent changes in the tax law. As a result of these special provisions, the fiscal regime has become quite intricate. A comparison of Nigeria's fiscal regime with its Africa peers (for example, Angola, Cameroon, Cote d'Ivoire, the Democratic Republic of Congo, Equatorial Guinea, and Gabon) and international practices among oil-producing countries also bear testimony to the complexity of Nigeria's tax laws.

84. The existing tax regime in Nigeria thus suffers from several overlaps and contradictions that need to be addressed. Some of the provisions have become inconsistent and, in some cases, even contradictory to one another as may be seen from the following:

- The present tax regime has especially high statutory tax rates going up to 85 percent.

- The rate for PSCs at the same time is reduced to 50 percent.

- Generous tax credit and tax allowances are permitted.

- The MOUs, which specify the fiscal conditions for oil operators, often provide numerous fiscal incentives and protect operators' profits at the government's expense when oil prices go down.

- At the same time, a minimum tax liability of 15 percent is mandated in the law.

- The royalty rates are neither linked to price of oil nor to the rate of return or profits.

85. Clearly, a comprehensive tax reform is needed in the oil sector. The pending PIB is supposed to replace the existing laws governing the petroleum sector. The bill aims to increase the government's take in JVs to 95 percent from its present level of 85–90 percent and its take in PSCs to about 70 percent from its current level of 60 percent. Although the law covers fiscal provisions, it does not include a reform of the tax system applied to the oil and gas sector.[28]

86. Compared with its peers in West Africa and practices in other oil-producing countries, Nigeria's royalty and profits tax rates are high, but at the same time, Nigeria gives substantial incentives and allowances. For example, it makes the fiscal regime competitive by giving a 50 percent tax allowance, and it provides for a sliding scale of royalty, depending on water depth and differences in production costs. The absence of cost-recovery limits ensures that investors recover their investments in good time. Additionally, MOUs include other incentives for the companies and further reduce the tax liability.

ii. Revenue Administration

87. Numerous shortcomings in revenue administration have been identified in the Nigeria Extractive Industries Transparency Initiative (NEITI) financial audit report 1999–2004 issued in 2006. The very quantity of oil that is the basis of all royalty and profits tax assessment is uncertain. Department of Petroleum Regulation (DPR) production data often differ from the data provided by the companies. Measurement of crude oil is also a problem.

- The DPR does not have a comprehensive database of those who hold oil mining leases and oil prospecting licenses.

- DPR has not rigorously verified royalty computations prepared by companies and the key related variables in computation—volume and API (American Petroleum Institute-measuring density of petroleum liquid) gravity—seem to be interpreted and applied subjectively by the companies.

- In the present setup, the responsibility for technical data dealing with physical production and volumes is separated from the responsibility for financial management. This has led to unreconciled differences between the two. These differences are attributed to the institutions involved—DPR, Federal Inland Revenue Service (FIRS),

and the National Nigerian Petroleum Company (NNPC)—and their inability to effectively share data and information.

- The use of suitable and secure computer-based information technology systems to provide consistent data to various users and to analyze this data is limited or often nonexistent.

- The NNPC monthly returns on crude oil sales do not indicate the volume of crude, the applicable price, the exchange rate used, and the method used for computing the proceeds.

- In the determination of the profits tax liability, all the joint venture companies fail to apply the 2000 MOU regarding the use of realizable price. Misapplication of the MOU provisions revealed significant differences in tax liability leading to additional assessments.

- Some companies claimed capital allowances on construction in progress. The argument was that paragraph 15 of the second schedule to the Petroleum Profits Tax Act allows for the claiming of capital allowances from the moment the expenditure is incurred, rather than when the asset is first put to use.

- The NEITI audit indicated potentially significant petroleum profits tax under assessments in relation to operating expenses, intangible drilling and development costs, investment tax allowance, and capital allowance on non-associated gas. In several areas, the legislation is unclear as to how the liabilities and allowances should be computed.

Spending Resource Wealth

88. Nigeria's fiscal system, in particular the arrangements for sharing federally collected revenue among the three tiers of government, has undergone several changes since independence (for details, see World Bank 2007). Fiscal federalism was revived in 1999 at the start of the Obasanjo administration. In principle, all oil revenues collected at the federal level are paid into the CRF and then shared among the three tiers of government. Under the budget reform program of 2003, however, the government began using an oil-price-based fiscal rule. A reference price for oil is set annually and oil revenues accrue to the CRF in line with this oil price. Revenue derived from oil prices that are higher than the reference price is put into the excess crude account (ECA). The oil-price-based fiscal rule delinks expenditures from current oil revenues and is meant to create a contingent stabilization fund. If implemented properly and in combination with prudent budgeting and expenditure programs, the rule is expected to promote good governance and sound fiscal policy in the oil-dependent country. The new fiscal institution has faced stiff challenges but held up throughout the fierce political storms.

89. Nonetheless, fiscal rules have been relaxed over time. While the excess crude oil account maintained to some extent fiscal discipline in early years of the establishment of the ECA which supported growth in domestic demand and the GDP during the global financial crisis of 2009, over time, the pressure from states to share the resources brewed up. The country was unable to rein in the stimulus spending of 2009 and a further fiscal extension in 2010 quickly depleted the remaining ECA reserves (World Bank 2011b). To create sustainable rules and institutions to manage the country's oil wealth, the government has been working on building a political consensus for the establishment of a new Sovereign Wealth Fund (SWF) which is proposed to divide the funds into three separate components: (a) a stabilization component for protecting the budget against a fall in oil prices, (b) an infrastructure component for key areas of public investment, and (c) a savings component.

90. The first call on the oil revenue in the CRF is for derivation payments. Currently, 13 percent of oil revenue is paid to the oil-producing states in the form of "derivation." Oil-producing states have lobbied hard for an increase in the derivation amount, even though, under the current regime, per capita revenues for oil-producing states are significantly higher than allocations for non-oil-producing states (Freinkman 2007). After derivation, the remaining funds in the CRF are shared between the three tiers of government according to a formula proposed by the RMAFC and approved by Parliament. The current formula, which has been used since February 2004, allocates 52.68 percent to the FGN, 26.72 percent to state governments and 20.60 percent to local governments.[29]

a. Revenue Management and Allocation

91. The budget process starts from the executive arm of government when the Budget Office of the Federation (BOF), a department in the Ministry of Finance (MOF), issues a Call Circular, requesting the ministries, departments, and agencies (MDAs) to prepare and submit their estimates for the next fiscal year. Until the 2003 economic reforms, the estimates were little more than wishlists from the various MDAs. Following the 2003 budget reforms, however, MDAs had to formulate their estimates within an envelope determined by the government based on its high policy priorities. Adoption of the Medium-Term Expenditure Framework (MTEF) together with the oil-price-based fiscal rule aims to achieve budget discipline and prioritization of expenditures. The budget estimates as agreed on by the executive go to the National Assembly, where various committees of the Senate and House of Representatives responsible for MDA oversight examine the relevant estimates and make recommendations to the Appropriations Committee of their respective chambers.

92. Once passed, the MOF through the Office of the Accountant-General of the Federation (OAGF) ensures releases of appropriations to the MDAs for budget implementation. The Procurement Commission (formerly Budget Monitoring and Price Intelligence Unit) monitors expenditures to ensure competitive pricing and value for money in the expenditure of funds. Through the BOF, the MOF monitors implementation on behalf of the executive, while the Oversight Committees of the two chambers of the National Assembly also carry out periodic monitoring and evaluation. Civil society organizations also participate in the monitoring of budget execution through their initiatives or through participation in public hearings periodically conducted

by the National Assembly upon receipt of complaints from the public or as part of the oversight activities of committees.

93. Despite these layers of monitoring and evaluation mechanisms, there is very little effective monitoring of public expenditures in Nigeria. As the energy sector probe conducted in April–May 2008 revealed, considerable funds were used out for energy projects under National Independent Power Projects scheme without obtaining due process certification or any guarantees that the projects would be executed.[30]

94. At the state level, the State House of Assembly (SHA) authorizes the budget, but it is the governor who initiates the process by ensuring that the MDAs prepare estimates that he forwards to the SHA. The SHA also has committees that monitor and evaluate budget performance together with inputs from civil society organizations, but with even lesser effectiveness than at the federal level. The governor dominates the SHA for various reasons. Each governor is the main, if not sole, financier of his political party in his state. He leverages his financial control to maintain a stranglehold on the party machinery and the legislature. The lack of effectiveness in budget monitoring and evaluation also reflects the fact that the states actually raise little revenue on their own. With the exception of Lagos State, allocation from the Federation Account is by far the largest component of state revenues accounting for as much as 85 percent, while the next largest source (valued added tax) is federally collected (Barkan, Gboyega, and Stevens 2001, 29). For the oil-producing states, an additional 13 percent derivation fund pushes Internally Generated Revenue to a distant fourth.

95. Local governments run a presidential system, which mirrors the structure of government at the state and federal levels. Budgeting follows the same pattern as the higher levels of government. Elected councils, however, are much less capable of performing their oversight role and holding the local government chair accountable. Thus, very little of the transfers to local government councils translates into capital projects and services (Aluko 2006; HRW 2007).

Box 1. The Relationship between Spending Decisions and Sector Performance

Significant budget expenditures in the past did not always bring improvement in service delivery.

Health: It is estimated that total spending in the sector (public and private) exceeds 6 percent of the gross domestic product (GDP), which is rather high by international standards. However, the health outcomes remain extremely low and have not improved over the years. Infant and maternal mortality rates remain high at 110 and 8 per 1,000 births in 2005, respectively. Moreover, infant mortality increased by 20 percent between 1990 and 2005 (Nigeria 2006 MDGs Report). Communicable diseases (particularly malaria and diarrhea) are the main causes of mortality, which can be easily prevented or treated at relatively low cost.

Education: The education sector has been attracting a significant amount of funding over the last four to five years from all tiers of the government without much change in social indicators. This significantly improved net primary enrollment. Also, the share of the primary school students that reach grade five increased from 71 percent in 2000 to 78 percent in 2005 (Nigeria 2006 MDGs Report). But the quality of nation's teaching and schooling remains of concern, and this is reflected in poor literacy outcomes. Adult literacy rate was only 64 percent in 2004.

Roads: Inadequate funding for maintenance, rehabilitation, and asset renewal during the previous decades is the major reason for high transportation costs and poor safety conditions. It is estimated that between 50 and 70 percent of road network is in poor condition (Willoughby 2007). The FGN recently has increased funding for the sector to address the problem.

Power: In 2001–05, the federal government spent, through investment grants, subsidies, and loans in the sector, about N270 billion or more than US$2 billion, while the massive power shortages remain the major development constraint for the private sector and a critical social problem. A partial explanation for this low impact of budget spending relates to the low completion rate of initiated investment projects in the sector. The value of unfinished construction has increased by N82 billion since 2000.

Source: World Bank 2007, 33.

b. Sustainable Development Policies and Projects: Impact of Public Expenditures

96. The impact of Nigeria's public expenditure does not compare favorably with those of other oil-producing countries. A World Bank report (2007, 33) estimated that Nigeria's historical incremental capital output ratio at 12.7% "was very high, more than double that of a better managed oil economy such as Indonesia." Nigeria's low average efficiency of government spending was attributed to mismanagement under military rule.

97. This corroborates the view that waste (particularly in the oil sector), more than the Dutch disease, explains the low real GDP growth of Nigeria (Sala-i-Martin and Subramanian 2003). Sala-i-Martin and Subramanian (2003) pointed out that oil revenues were used to enhance physical capital accumulation between 1973 and 1980 when two major oil price shocks occurred. The capital stock grew an average of 14 percent per year, totaling a threefold increase in capital stock in eight years. At the same time, public investment as a share of GDP rose to 7 percent. Conversely, capacity utilization in manufacturing (mostly government owned) started to decline from an average of about 77 percent in 1975 to about 50 percent in 1983, and even more so since then.

98. Thus, Nigeria increased physical capital investments using oil revenues during the period of oil price windfalls, but it experienced diminished capacity to manage them (Bevan 1998, 67). This historical problem has persisted until now because, until 2004, no serious efforts were made to tackle it. As the World Bank report (2007) notes, "the core problem within Nigeria's budget system is low efficiency of budget spending, not inadequate amount of funding." (See appendix E for efficiency problems of public investment in the core social and economic infrastructure sectors.) Although oil revenues are not enough to achieve Nigeria's Millennium Development Goals (MDGs) and the targets established in the government's seven-point reform agenda and Vision 2020, the country's development has long been hampered by inefficiency in public investment, lagging structural reforms, and chronic problem with shortage of infrastructure. In this context, the World Bank recently had to demonstrate to creditors that Nigeria's level of debt servicing was not consistent with its achievement of the MDGs. As a result, the creditors agreed to write off 60 percent of Nigeria's debt (IEG 2009).

99. Poor budget implementation has been a source of concern to the government since 2003. Noteworthy reforms have been adopted to try to correct the anomaly. Among the measures undertaken are efforts to ensure budget discipline and predictability by (i) adopting an oil-price-based fiscal rule to facilitate excess crude savings, (ii) aligning budgeting and public expenditures to policies and the MTEF, and (iii) establishing the Budget Monitoring and Price Intelligence Unit (now the Procurement Commission) to enforce procurement rules. The BOF's role in the budget process has been enhanced. The BOF has since 2005 required MDAs to formulate medium-term sector strategies (MTSS). This process articulates precise sector strategic goals, objectives, performance indicators, and monitoring and evaluation plans. A Fiscal Responsibility Law has been passed, which will anchor sound and prudent management of public revenues.

100. Most of these measures have applied, until very recently, only to the federal level. Increased budget transparency, fiscal responsibility bills, and procurement bills only recently have been implemented at the state level. Given the high degree of fiscal federalism in Nigeria, it is crucial that budget implementation improves at the subnational level. This also extends to local governments, which are, among other things, responsible for delivering basic education and health services.

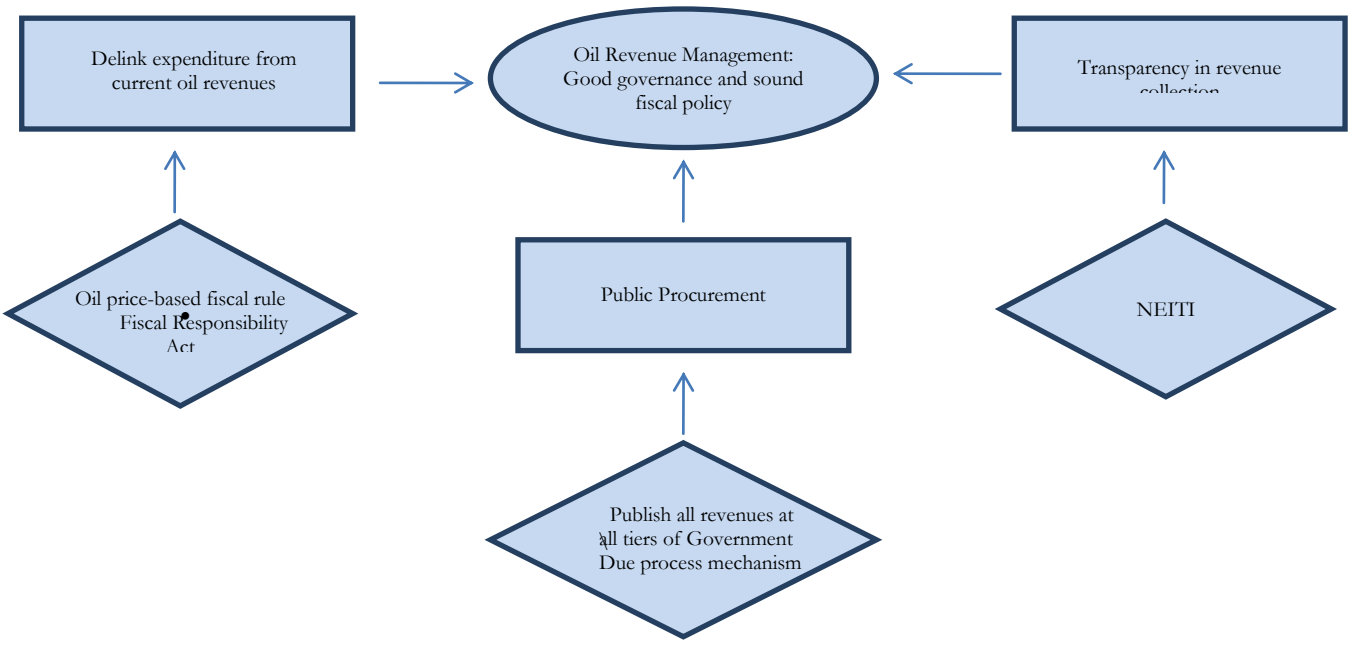
101. Nevertheless, budget implementation remains a major issue. The extent of capital budget implementation has been declining since 2005, when performance went down from 88 percent to just less than 44 percent in 2008. The reasons for the poor performance, according to a cabinet investigation committee report, included (i) lack of familiarity and understanding of extant laws, regulations, and guidelines on project execution by the MDAs; (ii) delays in obtaining approvals of ministers and permanent secretaries for various stages of the procurement process (iii) delays in processing payments; (iv) challenges in documentation; and (v) delays in processing memos to council (BOF 2008). Thus, low efficiency and inadequate capacity in the bureaucracy is a major cause of poor economic performance and of Nigeria's failure to derive maximum benefit from its oil resources.

IV. Framework for Reform

102. Since the Second National Development Plan, Nigeria has aspired to be economically strong and to be able to provide social welfare and equal opportunities for all its citizens. Reforms intended to check corruption, ensure accountability of public officials, and make economic management more efficient resonate with the public. This environment fostered the reforms of the 2003–07. During the second Obasanjo administration starting in 2003, the government produced the National Economic Empowerment and Development Strategy (NEEDS), which articulated a new economic reform agenda. The state and local governments also were encouraged to produce State Economic Empowerment and Development Strategy (SEEDS) and Local Economic Empowerment and Development Strategy (LEEDS). The reforms are wide ranging, covering financial sector, PFM, and public sector service delivery. The economic reforms of the Obasanjo period initially were opposed because of their novelty. They were embraced eventually, however, and members of the economic reform team remained good public managers until the end of the administration.

103. More recently, the Yar'Adua administration in 2008 announced an ambitious program aimed at ensuring that Nigeria becomes 1 of the 20 most industrialized countries in the world by the year 2020. Named Vision 20-2020, the blueprint integrates President Yar'Adua's campaign manifesto (the Seven Point Agenda), NEEDS II, and the MDG programs. It sets targets of US$900 billion GDP and $4,000 per capita income within the next 12 years. The recent reforms focus on achieving good sector governance and sound fiscal policy, based on three key pillars: manage the cyclical uncertainty and unpredictability of oil production and price (delink expenditures from current oil revenues), reform public procurements, and improve transparency and disclosure (see Figure 7). This section emphasizes the NEITI initiative, reviews challenges and opportunities to reforms, and draws some broad policy implications.

Figure 7: Nigeria's Current Reform Framework for the Oil Sector



The NEITI

104. Nigeria was one of the first countries to sign the global EITI and is now EITI compliant. Transparency in the oil and gas sector fit well into the Obasanjo administration's stated fight against corruption, which was evident in the creation of the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC). Anticorruption and transparency featured prominently in the overall emphasis on good governance and due process.

105. One of NEITI's first steps was to commission a comprehensive audit (financial, physical, and process) of the oil and gas industry for the period 1999–2004. This audit, which was finalized in 2006, remains in scope and detail the gold standard of global EITI. A second audit for the 2005 with the same scope is about to be published and the audits for the years 2006-2008 was contracted out during 2010. Following the publication of the audit, the Federal Executive Council agreed on a set of priority actions to remedy the shortfalls identified through the audits. The resulting Remediation Action Plan was subject to implementation by the Interministerial Task Team (IMTT), including representatives of relevant agencies chaired by NEITI. Although some limited progress in interagency collaboration and information sharing has been made, the IMTT has been largely ineffective—reflecting low-level membership of the IMTT, limited actual power of NEITI, and, to a lesser extent, difficulties in securing funding for remediation.

106. More fundamentally, several of the remedial actions envisaged under the action plan touch on sensitive issues in the industry and are expected to meet significant resistance. The best example is the issue of metering. The audits noted that Nigeria lacks an up-to-date metering system, with metering only taking place at the export terminal. Losses due to bunkering and pipeline vandalism, however, currently are not quantifirf because of the lack of proper metering. Any attempt to institute metering would affect vested interests in the sector and thus would need strong political support to succeed.

107. In 2007, the NEITI Act was passed, which made Nigeria the first country with a legal framework for the implementation of EITI. However, EITI implementation in Nigeria has been difficult over the last three years, because of bureaucratic delays, differences in power sharing and responsibilities between the NEITI secretariat and National Stakeholder Working Group (NSWG), and the lack of strong political leadership. It appears that political commitment to NEITI continued under the Yar'Adua–Jonathan administration. NEITI fits well within the administration's stated objective of following due process and the rule of law, as well as fighting corruption and promoting transparency. This being said, the administration has been slow to follow up on NEITI and its actual support has been uncertain. Within NEITI, the current leadership lacks strong political backing and has failed to form strong alliances, for example, with influential ministers such as those for finance and petroleum.

108. A complicating factor is the emergence of a sector governance reform agenda unrelated to NEITI. President Yar'Adua, picking up on work that had started under the Obasanjo administration, prioritized improving governance in the oil and gas sector. The PIB- is the most tangible outcome of this work, which is currently under consideration in the National Assembly. This piece of legislation aims to replace all existing legislation on oil and gas sector issues and fundamentally revamp the institutional setup in the industry. The most visible outcome would be the

breakup of the powerful NNPC. More importantly, the bill aims to clearly divide regulatory and commercial activities and create a number of new agencies. It also would change the fiscal regime for the sector. The oil industry opposes the bill in its current form because it would create significant uncertainty for the industry,for instance, by not specifying in detail the new fiscal regime. NEITI, in principle, would be well placed to support the passage of the bill, as NEITI audits provide independent evidence for the need for many of the reforms envisaged under the bill.

Improvements in the Judiciary

109. The judiciary has shown that with appropriate reforms and good leadership, checks and balances can be restored between the three arms of government. The 1999 Constitution establishes a National Judicial Council (NJC), which is a clearing house for the appointment of judges. At the federal level, it collects and disburses the judiciary's budget. Consequently, the judiciary is more insulated from manipulation by the executive using budgetary control. The judiciary's leadership has taken advantage of these reforms to express its independence. It has decided against the government in some landmark cases. The NJC is empowered to sanction erring judges, a power it has exercised effectively to instill discipline in the judiciary. Several judges at the federal and state levels have been dismissed because of complaints by aggrieved parties.[31]

110. A number of important cases highlight that Nigeria's court system has started to go against the government and the political level in general when they have legal justification to do so. The judiciary has, for example, supported a state when it had not received statutory funding from the federal level and it has reacted against the executive's misuse of power to allocate and reallocate political positions. When the federal level demanded that states make returns of expenditure of local funds to a federal agency, the judiciary nullified the arrangement. The judiciary has kept opportunities open for political candidates who have been disqualified unjustly by the election committee. These important developments have occurred despite incentives in Nigerian politics.

Reform Prospects

111. The likelihood of success of reform initiatives must be considered in light of a still very weak democracy and the resilience of the pro-reform activists in Nigeria. Their relentless struggles forced the military back into the barracks and ensured return to civil democratic rule in 1999. Even though they were politically ousted subsequently by strategic failure to directly contest for power, they remain influential because of the attractiveness of the role they envision for Nigeria in regional and global affairs.

112. The government is striving to ensure effective monitoring of the formulation and implementation of state development plans and budgets. Seizing the window of opportunity provided by the incessant requests by the states to draw from the excess crude account, the National Planning Commission (NPC) had proposed a scheme for monitoring and evaluating state expenditures. The Nigerian Governors Forum proactively embraced the review concept but opted to carry it out independently of the NPC. This has been approved by the National Council of State

and the NGF is contemplating a state peer-review mechanism, similar to the African Peer Review Mechanism. When it becomes operational, citizens will have an opportunity of independent assessment of the performance of their state governments.

113. As discussed in section 2, there is an element of hope in the potentials for using the judiciary as a check against arbitrary acts at the federal level. Courts are independent and have remarkably managed to self-improve despite a challenging political environment. These many positive signals have to be considered in light of obstacles and institutional weaknesses.

114. However, if Nigeria is to escape from the resource curse trap, it must carry out reforms at the level of the political economy and the oil industry regulatory framework. Sorely needed are constitutional and electoral reforms to ensure that elections are credible and confer legitimacy on the government. Neither of this is likely to happen in the way that will guarantee optimal outcomes. Constitutional and electoral reforms promised by the government are dragging. Electoral reforms, especially, is threatening to the government and will not be carried out as recommended by the presidential panel on electoral reform. Nigeria has opted to return to national planning, but the planning machinery is weak and needs to be revamped. NPC has capacity gaps that can undermine its ability to effectively anchor the new national development plan and the Vision 20-20-20 implementation. The Budget Office needs enhanced capacity for budget monitoring and evaluation, while MDAs need more capacity-building on budget implementation. The DPR has serious capacity gaps, which affect the performance of its regulatory functions. In addition, it lacks the necessary infrastructure to perform. FIRS also needs capacity enhancement to be able to cope with oil sector accounting complexities. Finally, the NEITI secretariat requires strengthening to exercise the extensive powers vested in it.

115. Notwithstanding all the reform efforts since 1999, there remain formidable obstacles to creating a sustainable environment for transparency in the management of natural resources in Nigeria. The potentials of reforming each phase of the value chain vary and will be shaped by the differential array of forces, interests, obstacles and opportunities. Rent beneficiaries will fight to keep their stake or minimize their losses from any reform effort.

116. Nigeria's political structure makes any reform inherently difficult. The National Assembly comprises 360 members from 36 states, grouped into six geo-political zones constantly competing with one another for greater share of national resources. With respect to the Niger Delta question, for example, the key issue of attaching an enhanced weight to the derivation principle is unlikely to be resolved in their favor as the nine states in the region have between them only 82 (22.8%) seats out of 360 in the House of Representative and 27 (24.8%) seats out of 109 in the Senate. Non-oil states know that the gain of the oil producing states is their loss, hence the longstanding stalemate in changing the revenue allocation formula.

117. The political elite is fragmented along ethnic, religious and regional lines who, in the absence of a strong national ideology, cannot easily agree on reforms to improve governance if personal, regional or sectional interests would be adversely affected. The ruling party's more than two-thirds majority in the National Assembly avails the President very little in terms of support for reforms, evidenced by the many reform bills pending before the National Assembly. Attempts to reintroduce the Freedom of Information Bill since the inauguration of the current National Assembly failed six

times, each time shot down by a coalition strongly apprehensive about the strength of the press. However, a watered down version was passed in March 2011. Corruption at the political level is perceived as a substantial challenge - and as described by Ipeke, Soludo and Elekwa (2004): *"The most important obstacle for reform is the fact that those who are supposed to introduce measures are those who lose from the reform."*

117. Nonetheless, there are clear opportunities for reform, most notably in the attempt to get the PIB passed and completely change the governance structure of the petroleum sector. However, these reforms are not addressed in the most strategic way, e.g. the PIB is said to be a weak document that could have been much improved before submission to Parliament. Furthermore, no strong inclusive alliance was built early on that would have helped in passing the bill. This allows strong powerful elites to tamper with the bill while it is being read. Even if the bill passes, it remains unclear how much it will change petroleum governance. A number of very good laws have been passed in the Parliament in Nigeria over the last years, but their implementation has been difficult because of strong opposition.

Policy Implications

118. The assessment of political economy and the oil sector reform prospects draws out some broad policy measures as follows.

119. The dynamics of the Nigerian politics indicates that while appropriate strategy and adequate resources for reforms are necessary, they are insufficient for the reforms to sustain and succeed. The reforms have to be driven from within, relying on the government's leadership or effective pressure from CSOs / media or both.

120. EITI is an important step forward to better governance of the sector. Nevertheless, it is inefficient without commensurate reforms across various stages of the value chain. The Nigerian experience with the EITI indicates that internationally, to be effective, the global EITI need to diffuse from audits to remedial measures (e.g. actually following up on the findings of the audits in terms of improving various aspects along the value chain).

121. Enhancing inter-governmental fiscal arrangement, transparency and accountability for service delivery at the state level is critical for the long-term growth and development. Freinkman (2007) highlights the urgency for multi-faceted reforms. The reforms must strengthen the incentives of government agencies at all levels of authority to improve cooperation in designing and implementing their policies and build capacity to support such future inter-governmental cooperation. The World Bank (2009a) also emphasizes the need for enhancing governance at all levels (and in particular at the state level) but recognizes that improving governance and capacity will be a long term process. The fragmented milieu of the country's politics and the discretionary power of state governments in determining the quality of public investment and service delivery require that the central government show the necessary leadership and successfully leverage the resources at its disposal to provide incentives to state governments to enhance delivery of social services (IEG, 2009). Some seeds of reforms at the state level have been planted: states are beginning to pass fiscal

responsibility bills, procurement bills, reforming their budget processes, and increasing transparency.

122. The renewed effort by the administration of President Goodluck Jonathan to bring under control the long-standing resource control conflict in Niger Delta is strategically critical. Nonetheless, resource allocation is neither the single nor the most important determinant in this prioritized strategy. Unless the relatively high youth unemployment in the region – which provides the recruiting ground for the militant groups is alleviated and local service delivery, transparency and accountability enhanced, any interventions – military included -- by the central government would prove fruitless or short-lived. The World Bank forthcoming operation (World Bank 2011a) to enhance opportunities for youth employment and access to socio-economic services while improving public expenditure management systems at the state level is expected to contribute to the overall resolution for uprooting the perpetual resource control conflict, especially in the Niger Delta region.

123. The international community can support by demanding transparency, raising questions about deviation from agreed upon procedures and pointing at gaps between welfare goals and actual policy.

124. The donor community could play a major role to better governance of the oil sector even though the ODA accounts for just a small share of the government's budget. Objective advice, analytical and policy support, assistance to build institutional capacity and meaningful investment programs to fill the gap in the chronic inadequacy of the country's infrastructure that hinders sustainable non-oil sector growth – all could be combined within a coherent development strategy to help the country on the path to economic and social progress. The World Bank has recently taken an increasingly strategic view of engagement at reforms at the state level concurrently with the effort to support capacity and institution building.

V. Conclusion

125. Nigeria's prospects for achieving its development agenda of becoming 1 of the 20 most industrialized nations by 2020 may appear daunting under the present circumstances. The country's development efforts are hobbled by poor infrastructure, human capacity inadequacies, corruption, weak institutions, flawed elections, and unaccountable leadership. Prolonged military rule weakened progress toward political good governance and left deep political and social divisions, which current leaders are struggling to overcome. Nevertheless, a lot of progress has been achieved since 1999, when the military handed over power to democratically elected leadership. Several reforms have been completed to restructure politics, reform governance, improve management of the economy, and ensure transparency and accountability in governance. 125. This chapter's analysis of the political economy shows that a lot still needs to be done to overcome Nigeria's development challenges, especially in petroleum sector governance and in the political process. Attempts to introduce competitive bidding in petroleum licensing have produced mixed results, primarily because of the sector's deeply rooted political and economic interests. Similarly, efforts to reform the industry's regulatory framework have stalled as the government has found it difficult to unbundle its holding company, the NNPC, and to ensure transparency of the regulators. Above all, many Nigerian regulators were once industry operators seconded or retired from the IOCs and,

therefore, are familiar with the operators. Nigeria embraced EITI, passed a law to institutionalize the initiative, and conducted physical and process audits of the oil industry. It has been difficult, however, to implement the recommendations of NEITI audits and this is not unconnected to the underlying political economy of the sector. NEITI reports reveal the weaknesses in the oil industry revenue collection machinery. Although Nigeria's fiscal regime compares favorably with those of other oil-producing countries, it suffers from overlaps and contradictions and inconsistencies. The main institutions involved in revenue collection- NNPC, DPR, and FIRS- experience capacity inadequacies, do not coordinate their efforts, and are liable to political pressures. The Niger Delta conflict, criminal activities, and oil theft or bunkering are mutually reinforcing in a seemingly perpetual cycle which resists all sorts of previous intermittent military, amnesty, and rehabilitation interventions.

126. Expenditure of oil revenues is no less problematic, producing an impact that falls short of those in other oil-producing countries. The ability to achieve healthy economic growth rates is hampered by low capacity to manage oil revenues, wasteful expenditures, lagging structural reforms, and infrastructure inadequacy. These shortcomings are attributable to and deepened by a political economy that sustains weak institutions, elections lacking credibility, unaccountable leadership that is not overly concerned with public welfare, and political processes prone to violence. Nigerian leaders have struggled since 1999 to reverse these trends, and some successes have been recorded. The judiciary has self-reformed and started to assert its independence from the executive, giving greater assurance that the rule of law is achievable. Reforms at the federal level—of public expenditure management, fight against corruption, NEITI, fiscal responsibility, and procurement legislation—give much promise that Nigeria could improve its political economy and prospects for development. Yet, these reforms need to be sustained, deepened and reinforced and must be addressed not as purely technocratic matters but rather as issues of political economy and vested interests that through regulation and reform must be aligned with the public interest.

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[1] By contrast, in Malaysia, which is another oil-producing economy with a large population, gross domestic product (GDP) per capita is almost five times higher than in the 1970s.

[2] Total installed capacity for electricity is 6,000 megawatts while generation and transmission have been below 2,000 megawatts since early 2009. According to the MAN, 820 firms have closed down between 2000 and 2008. The main

reasons for the collapse of the firms are said to be unstable electricity, high interest and exchange rates, smuggling, high cost of AGO and LPFO to power generators or boilers, and multiple taxation by the three tiers of government.

[3] A joint United Nations–World Bank initiative to prevent the theft of state revenues and money laundering.

[4] The statement issued by the International Observer Delegation fielded by the National Democratic Institute (NDI) on April 23, 2007, on the presidential election of April 14, 2007, noted that the electoral process failed the Nigerian people. It stated emphatically that the serious problems witnessed substantially compromised the integrity of the electoral process. This is in accordance with a statement of the NDI International Election Observer Delegation to Nigeria's April 21 Presidential and National Assembly Elections, Abuja, April 23, 2007.

[5] In accordance with theories by Ross (1999; 2001), Robinson et al., (2006)

[6] For discussion about political spending based on petroleum revenues versus taxation and accountability, see Devarajan et al. (2010), and Brautigam et al. (2008).

[7] For a review of best practice with respect to checks and balances and how these are secured in Norway, see Al-Kasim (2006).

[8] There are some amendments in the 1999 constitution that seemed to reduce executive control (related to the derivation percentage), yet in reality the unchecked executive control on the petroleum sector could continue (see Gillies, 2008a, 2008b).

[9] From inception, the minister and permanent secretary of the Petroleum Ministry could not agree on who should head the NNOC (Turner 1978). This has been the pattern since then. During the Second Republic, the House of Representative passed a motion declaiming Yoruba domination of the NNPC. As a result, the government reshuffled the top echelons of the corporation to try to restore ethnic balance (Gboyega 1985).

[10] At the exchange rate of N150 to US$1.

[11] Regarding motivation for Nuhu Ribadu's removal, at the end of the Obasanjo administration, the EFCC likely was used to go after political opponents. This rumor may have made it difficult for Ribadu to continue.

[12] This figure was given in a speech delivered by the Minister of Energy (Petroleum), Odein Ajumogobia, on behalf of President Umaru Musa Yar'Adua at the Oil and Gas Conference and Mini-Exhibition at Port Harcourt on July 10, 2008 (see the Leadership (Abuja) 2008, 1–2).

[13] For example, pipeline vandals were arrested in Ajaawa, a rural community in Oyo State on December 11, 2007. Similarly, 22 pipeline vandals were arrested in Anambra and 118 others in Rivers State in January 2008 (*Punch* 2008).

[14] In an article for the *Financial Times*, Dr. Dele Cole, a former presidential aspirant and presidential adviser (1999–2001) from the Rivers State observed that it is commonly believed in the Nigerian military that "you will never find a poor admiral."

[15] The key relevant legislation related to regulating gas flaring includes: (1) Hydrocarbons legislation: 1969 Petroleum Act and Regulations, as amended; Model Petroleum Contract; Associated Gas Reinjection Act 1979; Associated Gas Reinjection (Continued Flaring of Gas) Regulations 1985; The Petroleum (Drilling and Production) Amendment Decree 1988; and (2) Environmental legislation: Effluent Limitation Regulations 1991; DPR Environmental Guidelines and Standards for the Petroleum Industry 1991; FEPA EIA Guidelines for E&P Projects 1994, Decree No. 58/88 (World Bank n.d.).

[16] The joint donor assessment f the policy priorities for 2011 and beyond (World Bank 2011b) highlights the critical problem of the youth unemployment. The 15-35 year age cohort accounts for nearly 60 percent of population nationwide. Although they account for only a third of the workforce, they account for almost two-thirds of the unemployed.

[17] See HRW (2007) for a broad discussion about the violence and explanatory factors.

[18] Natural resource endowment, especially oil, is associated with civil conflicts according to Fearon and Laitin, (2005) and Collier and Hoeffler (2005), and Nigeria supports the correlation.

[19] There are several studies of how and why violence developed—and how it was escalated, for example, by IOCs paying groups for "protection," which created adverse incentives to increase kidnappings and violence.

[20] Since the Kaima Declaration Proclamations similar to the Kaima Declaration have been made by many other groups, such as, the Oron (Bill of Rights of the Oron People), the Egi people (The Aklaka Declaration), the Ikwerre (The Ikwerre Rescue Charter), the Urhobo (Urhobo Economic Summit), the Isoko, Ilaje, and many other oil-producing communities. The various demands of the Niger Delta peoples are now summarized in the Manifesto of the Niger Delta People, see appendix A.

[21] The Truth and Reconciliation Committee was set up to seek peace by Rotimi Amaechi, current governor of Rivers State, in May–June 2008

[22] By 2007, NDDC funds not released by the Presidency amounted to about ₦240 billion. President Yar'Adua rebuffed the entreaties of Niger Delta National Assembly members and Governors that the withheld NDDC funds be released, arguing that the funds had lapsed with the financial years during which they were withheld by his predecessor. According to the 2005 NEITI Report, payments by IOCs to the NDDC fell short by $50.615 and N1.2 billion for that year (NEITI 2009).

[23] For a review of corruption in oil regulation specifically, see Al Kasim, Søreide, and Williams (2008) and McPherson and MacSerraigh (2007). For a review of how corruption may happen in procurement in general, see Della Porta and Vannucci (1999), Moody-Stuart (1997), or Rose-Ackerman (1999). Some forms of corruption may seek to exploit a host country's aim to give preference to license applicants with national participation. National companies can sometimes be a façade for local politicians and officials.

[24] The 2009 budget estimates these sales at Nigerian naira (N) 1.8 trillion or 58 percent of all oil revenues.

[25] Current royalty rates are governed by 1999 "Deep Offshore and Inland Basin Production- sSharing cContracts Decree No. 9.". This law sets out the general framework for the operation of production-sharing contracts (PSCs), including the applicable royalties, tax regimes, and the manner in which costs and profits are allocated between the parties. This law provides for the following royalty rate structure. In areas from 201 to 500 meters water depth, the royalty rate is 12% percent, from 501 to 800 meters it is 8% percent, from 801 to 1,000 meters it is 4% percent. and It then it drops to 0% percent when depth exceeds 1,000 meters. The royalty rate payable under the Production Sharing Contracts PSCs in the Inland Basin shall be a flat 10% percent. A rate of 20% percent is applicable for onshore drilling.

[26] Profits tax is applied both on joint ventures (JVs) and production sharing agreements (PSAs). Tax is applied on company's profits based on sales proceeds adjusted for expenses and allowable deductions. These deductions include royalty payment, interest on debt, and capital consumption allowances. Losses are allowed to be carried forward. Tax is assessed at the rate of 85% percent. However, companies that have not fully amortized their pre-preproduction capitalized expenditures are subject to tax at the rate of 67.75% percent for a period of 5five years after which the normal rate of 85% percent shall apply. The capital allowances, however, are limited such that a company's tax liability is not reduced below 15% percent and the remainder is carried forward indefinitely. Thus, effectively 15% percent becomes the minimum tax liability for an oil company. Dividends are exempted from withholding tax.

[27] There are some special provisions for production sharing agreements. The "Deep Offshore and Inland Basin Production- sharing contracts Decree No. 9" of 1999 provides for payment of a flat rate of 50% percent tax on petroleum profits by PSC operators. Under a PSC, every petroleum company has to pay signature and production bonuses that are determined as per the terms of the production sharing contract (PSC). The PSC also indicates the duration of the contract (generally 30 years) and any limits on cost recovery and profit oil split between the government and the company. These contracts also lay down the rate of capital depreciation. Exploration costs are generally are expensed and development costs are depreciated over 5five years on a straight- line basis.

[28] Another executive bill is pending before the National Assembly to amend the Petroleum Profits Tax Act. This bill addresses several of the lapses in the upstream tax system.

[29] The RMAFC, in line with its statutory responsibilities, twice proposed a new vertical allowance formula to the government, but the National Assembly did not pass it during President Obasanjo's tenure. President Yar'Adua presented it again to the National Assembly. The vertical allocation formula proposed gives the states 6 percent more revenue, but most of it at the expense of local governments, so effectively not much more is to be transferred to the subnational levels.

[30] Various estimates have been given as the total amount of money paid out to energy sector contractors during the period. The speaker of the House of Representative claims it was $13 billion, whereas former presidency officials claim it was just over $3 billion.

[31] Most remarkable was the seven-month leadership of the Supreme Court of Nigeria by Justice Belgore, which started on June 14, 2006. Of his tenure, foremost constitutional lawyer, Nwabueze (2007, 343) observed that "it was a short tenure that transformed the image and credibility of the judiciary among Nigerians, a tenure characterized by rare courage, vision and determination to salvage that 'sensitive national organ of state' from the festering rot that has all but smothered public confidence in it."