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OIL RENT AND CORRUPTION : THE CASE OF NIGERIA

Marc-Antoine PÉROUSE DE MONTCLOS

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Ifri

27 rue de la Procession 75740 Paris Cedex 15 – FRANCE

Tel. : +33 (0)1 40 61 60 00 – Fax : +33 (0)1 40 61 60 60

Email: accueil@ifri.org

Website: Ifri.org

Author

Marc-Antoine Pérouse de Montclos has a PhD in Political Science and is a Senior Researcher at the Research Institute for Development (IRD). He is Editor-in-Chief of the journal, *Afrique Contemporaine* since 2018 and was an Associate Fellow at Chatham House between 2013 and 2017. He studies armed conflicts, forced population displacements and the evaluation of humanitarian aid in sub-Saharan Africa. He was a Professor at the French Institute of Geopolitics at University Paris 8 from 2013 to 2015 and graduated from the Paris Institute of Political Studies (IEP) where he taught from 2003 to 2016. He has lived for several years in Nigeria, South Africa and Kenya, and regularly undertakes field research in Africa. He is the author of many articles and books, including *Boko Haram: Islamism, Politics, Security, and the State in Nigeria* (2015), *Violence, statistics, and the politics of accounting for the dead* (2016), *Violence in Nigeria: A qualitative and quantitative analysis* (2016), *Un développement humanitaire? Les ONG à l'épreuve de la critique* [*Humanitarian development? A critique of NGOs*] (2016) and *L'Afrique, nouvelle frontière du djihad? [Africa, the new frontier for jihad?]* (2018).

Abstract

This study analyses the various mechanisms that explain the leakage of the main source of wealth in Nigeria at all levels of the production and commercialization of oil and gas, from the wellheads, with the *bunkering* of pipelines, up to the export of crude oil and the import of refined products, including through capital flight to tax havens. Several lessons can be learned. Indeed, the corruption of the industry involves a multitude of stakeholders, showing the limits of NGO's advocacy and financial audits that focus only on international oil companies. The diversion of the oil rent is first and foremost a governance issue. The Nigerian state is the main actor involved, both at the federal and local levels.

Résumé

Cette étude analyse les mécanismes de détournement de la rente pétrolière et gazière à tous les niveaux de la production et de la commercialisation d'hydrocarbures, depuis la tête de puits, avec le percement des pipelines (*bunkering*), jusqu'à l'exportation de brut et l'importation d'essence raffinée, sans oublier l'évasion de capitaux dans des paradis fiscaux. Plusieurs leçons peuvent en être tirées. D'abord, les multinationales, qui retiennent tant l'attention des médias, ne sont jamais qu'un acteur du problème, parmi beaucoup d'autres. La variété et la complexité des parties prenantes du détournement de la rente mettent ainsi en évidence les limites des campagnes d'ONG et des audits financiers qui se concentrent uniquement sur les compagnies internationales. L'analyse de la corruption issue du secteur pétrolier souligne plutôt la nécessité d'améliorer la gouvernance du Nigeria, tant au niveau fédéral que local.

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Introduction

Nigeria, which is the leading oil producer on the continent, is often cited as a textbook case of the damaging effects of corruption and of the "resource curse" in Africa. For many, the problem comes from the embezzlement of its oil rent, which provides the bulk of the state's foreign currency revenue. Indeed, regardless of changing oil prices, the loss of revenue from hydrocarbon extraction has devastating effects on the ability to carry out development actions, finance infrastructures or, just, maintain basic public services.

Generally defined and understood as an abuse of power for private purposes, in fact corruption covers many practices which range from bribery to extortion, fraud, nepotism, embezzlement, theft or insider trading. It is not restricted to the public sector or extractive industries. Before the first discoveries of oil deposits in 1956, Nigeria was already experiencing corruption cases which were often linked to misuse of company assets for personal or collective gain. These scandals had actually given rise to the derogatory term "kleptocracy", a neologism made up by the sociologist, Stanislav Andreski, who lived in Ibadan in the early 1960s.[1]

The oil boom of the 1970s then exacerbated such practices. The following study therefore aims to decipher the complexity of the mechanisms and instruments for embezzling the oil wealth, not only in terms of corruption, but also in loss of revenue, as the two frequently go hand in hand. Unlike other case studies, which only deal with some aspects of the problem, the analysis has a holistic, if not comprehensive aim. It focuses on all levels and stages of hydrocarbon production and marketing, from the wellhead with the drilling of pipelines (*bunkering*) to the export of crude oil and the import of refined petrol, not to mention capital flight to tax havens.

1. S. Andreski, *The African Predicament: A Study in the Pathology of Modernization*, London: Joseph, 1960, p. 108.

Corruption before the Oil Boom

Certainly, corruption is not a new trend. In 1900, Nigeria's first Governor-General, Frederick Lugard, was already complaining about the extortion practices of fraudsters who roamed villages claiming to levy taxes on behalf of the British.[2] Before independence in 1960, the colonial power was also accused of fuelling corruption by co-opting politicians involved in financial scandals, so as to blackmail and manipulate them. In 1956, for instance, the British saved the main southern nationalist party, the NCNC (*National Council of Nigeria and the Cameroons*), from bankruptcy in order to force it to deal with northern Muslims who defended London's interests.[3] In the same vein, the 1959 and 1961 referendums in northern British Cameroons were suspected of fraud and vote-buying for the region to be joined to Nigeria.[4]

Independence in 1960 did not put an end to corruption. In the first all-Nigerian government, the Ministers of Transport and Finance, Kingsley Ozuomba and Festus Okotie Eboh, were nicknamed the *ten-percenters* because of the percentage they took on all the contracts they approved. Festus Okotie Eboh even increased the custom duties on footwear imports when he opened his own shoe factory. He was deeply hated and finally executed without further ado during the first military coup in 1966. As for the agricultural marketing boards, they served as slush funds for the parties competing for power, at a time when Nigeria's economy was still predominantly rural. Thus the Western Region Marketing Board was close

2. M. Tukur, *British Colonisation of Northern Nigeria, 1897-1914: A Reinterpretation of Colonial Sources*, Dakar: Amalion Publishing, 2016, p. 64.

3. H. Smith, *Blue Collar Lawman*, Bradford-on-Avon, self-published, 1987.

4. In 1959, 62% of voters preferred to remain under the United Nations' tutelage, refusing to unite with a Nigeria promised independence. In fact, they were wary of the hegemony of the region's Muslims, particularly the Fulani "invaders", and wanted to have their own administration, like in southern British Cameroons. To counteract this result, the colonial power then created local authorities, injected funds for development and allowed women to vote, which resulted in a 170% increase in the number of voters. Candidates in favour of the Cameroonian option were also banned from campaigning, particularly in Mubi and Madagali. Despite Cameroon's unsuccessful appeal to the International Court of Justice, the 1961 referendum finally achieved the result that the British were waiting for, namely joining Nigeria. It is true that electoral practices were not much better on the other side of the border. Both the constitutional referendum and the parliamentary elections of February and April 1960 resulted in the victory of President Ahmadou Ahidjo's party, whereas southern British Cameroons had voted against and the results were inflated in the North. See: V. Hiribarren, *A History of Borno: Trans-saharan African Empire to Failing Nigerian State*, London: Hurst, 2016, p. 320; T. Deltombe, M. Domergue and J. Tatsitsa, *La Guerre du Cameroun : L'invention de la Françafrique (1948-1971)*, Paris: La Découverte, 2016, p. 180.

to the Bank of West Africa of Yoruba leader Obafemi Awolowo, who was prosecuted for financial irregularities in 1962. Likewise in Iboland, the Eastern Region Marketing Board was linked to the African Continental Bank of Nnamdi Azikiwe, who was convicted of fraud in 1956. Finally, the Bank of the North was close to the party of Ahmadu Bello, who was eventually shot dead in a military coup in 1966.

With the easy money of the 1970s oil boom, corruption cases then took an extraordinary scale, whether during military dictatorships or under civilian rule. According to the Minister of Petroleum and Energy, Tam David-West, the country lost some $ 16 billion during the Second Parliamentary Republic from 1979 to 1983, or 20% of its oil revenue, mainly because of fraud, the overbilling of contracts and the theft of crude oil with the complicity of agents from the national oil company, the NNPC (*Nigerian National Petroleum Corporation*).[5] Military coups did not resolve anything. The army, which was supposed to restore order, used the pretext of top secret defence matters to institutionalise the lack of transparency in the management of oil revenue. According to a report never published by the economist, Pius Okigbo, $ 12.4 billion quite simply vanished from the Public Treasury accounts between 1988 and 1994.[6]

The situation did not really improve after the return of a civilian government to power in 1999, when rising oil prices supported increased oil revenue despite stagnating production.[7] Admittedly, Nigeria was the first country to sign British Prime Minister, Tony Blair's Extractive Industries Transparency Initiative (EITI). A first audit commissioned in 2006 by the Nigeria Extractive Industries Transparency Initiative (NEITI) found no significant differences between the reported sales of crude oil and the volumes officially exported during the 1999-2004 period. However, it identified vast discrepancies between the actual value of barrels produced and payments made to the Central Bank. Additionally, it identified systemic deficiencies in revenue accounting.[8] For the 2009-2011 period, another NEITI audit then discovered a shortfall of $ 4.8 billion because the NNPC had "omitted" to transfer dividends to the Central Bank and to repay loans granted to its gas company NLNG (Nigeria Liquefied Natural Gas Limited).[9] Finally, after the election of President Goodluck Jonathan in 2011, the NNPC

5. S. Ellis, *This Present Darkness: A History of Nigerian Organized Crime*, London: Hurst, 2016, pp. 117 and 127.
6. *Ibid*., p. 140.
7. S. Ariweriokuma, *The Political Economy of Oil and Gas in Africa: The Case of Nigeria*, London: Routledge, 2008, pp. 31-33.
8. M. Abutudu and D. Garuba, "Natural Resource Governance and EITI Implementation in Nigeria", Uppsala: Nordiska Afrikainstitutet, 2011.
9. NEITI, *Financial Flows Reconciliation Report: 2009 – 2011 Oil & Gas Audit*, Abuja: Nigerian Extractive Industries Transparency Initiative, 2013, p. 7.

almost stopped paying Abuja the revenue from the export of crude oil quotas theoretically allocated to Nigerian refineries.

According to NEITI, the federal government "lost" more than 4% of $ 269 billion from oil revenue between 1999 and 2008: 2.6 literally vanished and 9.9 were never to be been found.[10] The total shortfall was certainly greater than just the embezzlement of public funds if the extra costs of sabotage and the resulting pollution were included.[11] For the period 2003-2008, insecurity and attacks in the Niger Delta forced many companies to close some wells and caused Nigeria to lose on average some 900,000 barrels of oil per day.[12] According to another estimate, the shortfall in fact rose from 250,000 barrels per day in 2000 to 650,000 in 2008, or the equivalent respectively of $ 2.6 and 27.5 billion per year, yet without counting the losses due to the theft of crude oil.[13]

Gas production, which is usually combined with oil extraction, also raises many problems. Indeed, the current practice of flaring results in a significant loss of revenue, because the gas is not processed to be sold. Furthermore, the government does not levy pollution fines because the inspectors of its DPR (Department of Petroleum Resources) are unable to measure the volumes extracted and burnt in the atmosphere. The industry desperately lacks independent regulatory bodies. In practice, the DPR is devastated by corruption. At the end of 2006, for example, its Director was dismissed because he was involved in shady deals and contracts that were never fulfilled, a case which coincided with the discovery of $ 20 billion missing in the NNPC's accounts.[14]

At times, this has led to the paradox that the more crude oil and gas Nigeria sold, the less money it earned[15]. The trend was particularly marked in a period of rising oil prices, particularly during the first Gulf War in 1990-1991, when the *Financial Times's* correspondent in Lagos was expelled from the country for having asked embarrassing questions about missing money. The amounts were huge. Nuhu Ribadu, a former director of the anti-

10. L. Mitte, "Speech on the Occasion of NEITI Stakeholders' Engagement on the Petroleum Industry Bill, Lagos". Document in the author's possession, 20 September 2012.

11. The specific case of Asian oil companies, particularly Chinese, can be added to these losses. During the 2000s, they indeed obtained concessions in exchange for funding infrastructure projects which were never achieved. It its estimated that Nigeria may have lost up to $ 10 billion. See A. Vines *et al.*, *Thirst for African Oil: Asian National Oil Companies in Nigeria and Angola*, London: Chatham House, 2009.

12. D. Clarke, *Crude Continent: The Struggle for Africa's Oil Prize*, London: Profile Books, 2008, p. 102.

13. J. B. Asuni, *Blood Oil in the Niger Delta*, Washington D.C.: United States Institute of Peace, 2009, p. 6.

14. K. Kalu, *State Power, Autarchy, and Political Conquest in Nigerian Federalism*, Lanham (MD): Lexington, 2008, p. 130.

15. I. Sadra and Co Chartered Accountants, *Financial Audit: An Independent Report Assessing and Reconciling Flows within Nigeria's Oil & Gas Industry, 2009 to 2011*, Abuja: Nigerian Extractive Industries Transparency Initiative, 2013, p. 8.

corruption agency, EFCC (*Economic and Financial Crimes Commission*), estimated in 2006 that the federal government may have stolen or wasted more than $ 380 billion in total since independence.[16] A significant portion of these funds went abroad and were not reinvested locally. According to the United Nations Economic Commission for Africa, Nigeria may be the country most affected by capital flight on the continent. From 1970 to 2008, $ 217.7 billion may have gone illegally into offshore accounts, twice more than for Egypt.[17]

However, embezzlement and smuggling also highlight the importance of financial diversion within the country. Nigeria is a federation made up of a three-tier government, with a central government in Abuja, federated states and Local Government Areas (LGAs). Corruption is particularly rife in the oil-producing regions of the Niger Delta which constitute the so-called "South-South" geopolitical zone. Given the amount of money circulating there, opinion polls show that the frequency of bribes paid to civil servants is the highest in the country.[18] Also, the authorities in the Niger Delta often inflate the cost of construction contracts and assign them to friends to receive kickbacks.

Such practices have direct effects on local governance. Rivers, Bayelsa, Delta, Akwa Ibom and Ondo are among the most indebted states in the Nigerian federation, as their oil reserves allow them to borrow easily on the national market and even abroad.[19] Added to this are poor economic performances characterized by mismanagement, waste, opaque budgets, and a weak capacity to collect taxes and achieve public works. According to a study conducted by the United Nations Development Programme (UNDP) and the British Department for International Development (DFID) in 2005, Cross River was the only state in the region to meet minimum standards in these domains.[20] The others did not publish their budgets and did not have them audited; as a result, it was common to find discrepancies of up to 20% between posted revenue and expenses incurred.

16. S. Ellis, *This Present Darkness: A History of Nigerian Organized Crime*, *op. cit.*, p. 153.

17. *Africa Confidential*, Vol. 57, No. 8, 15 April 2016, p. 2.

18. UNODC, "Corruption in Nigeria. Bribery: Public Experience and Response", Vienna: United Nations Office on Drugs and Crime, 2017, p. 6.

19. E. Osaghae, "Resource Curse or Resource Blessing: The Case of the Niger Delta 'Oil Republic' in Nigeria", Commonwealth & Comparative Politics, Vol. 53, No. 2, 2015, p. 126.

20. This Day, 11 March 2006, p. 66.

Pipelines, Oil Theft and *Bunkering*

In fact, the embezzlement of oil wealth starts at the ground zero of extraction, near the wellheads, with a process known as *bunkering*, a technical term which refers to a trans-shipment of fuel between two boats. To divert crude oil, well-organised mafias thus inject water into the pipelines to maintain pressure and avoid their drilling to be detected downstream in the flow stations. The stolen cargo is then transferred into barges and leaves either for super-tankers for illegal export abroad, or for artisanal refineries which heavily pollute the Niger Delta and produce very poor-quality petrol for the national market or for neighbouring countries. It is estimated that roughly 25% of this diverted oil is sold locally, generally at a price about one-third lower than at petrol pumps.[21]

Bunkering is actually quite old. It goes back to the Biafra War, when the secessionists had to develop their own artisanal refineries in order to compensate for the cessation of production and the Nigerian blockade which prevented them from importing petrol. At the time, *bunkering* was not frowned upon. As part of a mission report for the US Congress in 1969, Senator Charles Godell praised "the remarkable ingenuity and determination" of the engineers who had successfully built bush refineries in the jungle.[22] After the end of the Biafra war and the oil boom of the 1970s, the economic crisis of the 1980s then led navy and army officers to expand the smuggling of stolen crude oil which allowed Nigeria to comply with its official OPEC member country quotas. With the return of a civilian government in 1999, *bunkering* finally experienced a new impetus due to increased oil prices and arrangements made with insurgents in the Niger Delta as part of an amnesty granted in 2009.

It is very difficult to evaluate the quantities of crude oil which are stolen. Attempts at estimates are made all the more complicated as the NNPC does not publish accurate data. Furthermore, the theft often takes place before the fiscal points which are supposed to measure the number of barrels produced and taxed by the government. Nigeria, in this regard, is quite different from other oil-producing countries where the fiscal point is located at the wellheads and not further downstream. Historically, this specificity

21. SDN, Communities not Criminals: Illegal Oil Refining in the Niger Delta, Port Harcourt: Stakeholder Democracy Network, 2013, p. 11.

22. D. Anthony, "Resourceful and Progressive Blackmen: Modernity and Race in Biafra, 1967-70", *Journal of African History*, Vol. 51, 2010, p. 54.

dates backs from the 1960s. Indeed, the pipelines of the first company to operate in the Niger Delta, Shell, were to collect the production of several Trans-National Corporations (TNCs). The distribution of profits was then calculated at the oil terminals and not the wellheads. Such a system was less costly, as the installation of tax-measuring instruments was very expensive and always the operators' responsibility.[23]

Due to a lack of reliable measuring instruments, estimates of volumes of stolen oil therefore vary considerably. For example, in 2012, the JTF (Joint Task Force), which groups the army, the navy and the police, reported losses of less than 10,000 barrels per day. On the other hand, according to Shell, the quantities of "bunkered" crude oil were around 150,000 barrels per day, or even up to 250,000 according to an official report, or between 6% and 10% of Nigeria's total oil production.[24] When the oil price reached $ 100, this represented a loss of $ 15 to $ 25 million per day and $ 5 to $ 9 billion per year.[25] Based on satellite surveys and interviews with 61 traffickers, a report by the Nigerian Central Bank reported the theft of 232,000 barrels per day, or a loss of earnings of $ 6.7 billion in 2013.[26] Other estimates from oil operators varied between 70,000 and 300,000 barrels per day. With the oil price at $ 60, their lower range still represented an annual loss of $ 1.5 billion according to calculations by the Council on Foreign Relations, a Washington-based *think tank*.[27]

Nowadays, it would be difficult to speculate on an upward or downward trend in *bunkering*. It is possible that the trend is measured better, which could give the false impression of an increase in crude oil theft. One thing is certain: Nigeria is one of the very few producing countries where oil is directly diverted on an industrial scale by criminal or insurgent groups. The situation in the Niger Delta can thus be compared to those in Colombia, Mexico, Russia (in Dagestan), Indonesia (in southern Sumatra), Iraqi Kurdistan, and in the Mosul region at the hands of Islamic State, in this case for exports to Turkey.[28]

23. Thus some suspect that Shell wanted to under-estimate its competitors' production. Nowadays, TNCs are also accused of turning a blind eye to bunkering in order to buy social peace without having to pay taxes on the oil diverted from their production.

24. C. Katsouris and A. Sayne, *Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil*, London: Chatham House, 2013, p. 25.

25. M. N. Ribadu, "Report of the Petroleum Revenue Special Task Force", Abuja, PRSTF, 2012, p. 176.

26. W. Wallis, "Nigeria: The Big Oil Fix", *The Financial Times*, 26 May 2015.

27. "Fuelling the Niger Delta Crisis", Brussels, International Crisis Group, Report No. 118, 2006, p. 8, available at: www.crisisgroup.org.

28. This list should in fact be longer if it included countries where insurgent groups just levy taxes on oil products, like AQAP (Al-Qaeda in the Arabian Peninsula) in the port of Mukalla in Yemen. See: C. Katsouris and A. Sayne, *Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil*, *op. cit.*, p. 16.

In Nigeria, the *bunkering* system is a real industry and therefore needs protection at the highest level. The author of this study, for example, saw barges of stolen oil pass under soldiers' eyes who pretended to look elsewhere.[29] Even the United Nations have admitted that ongoing *bunkering* operations were "indicative, at best, of the government's inability to stop it, at the worst of collusion with the authorities".[30] Lots of people have an interest in the continued "leakage" of crude oil: insurgents to fund their arms purchases and negotiate political advantages; military personnel to supplement their salaries; sub-contractors to obtain repair and cleaning contracts for oil spills; youngsters from nearby villages for finding work in artisanal refineries in the region; the oil industry, some argue, to buy social peace and circumvent the OECD's anti-bribery regulations which prohibit giving cash to gang leaders and racketeers. If the shortfall is evident to operating companies, it also seems that from a strictly financial point of view, the problem is manageable as long as the fiscal point is located downstream at the flow stations.

In fact, according to researcher Elizabeth Gelber, *bunkering* is so integrated into the oil industry that it is now part of the formal economy.[31] The system is self-sustaining, since it funds both the security forces, rebel groups and corrupt civil servants. Due to a lack of petrol stations in the creeks of the Niger Delta, even the local subsidiary of the Italian company Agip used to run its vehicles on fuel stolen and refined locally in the bush, before ending this practice in 2015.[32] In reality, according to Kathryn Nwajiaku, *bunkering* and Nigeria's rentier economy are two sides of the same coin. "The violence and insecurity in the Niger Delta serve the interests of all those who have invested in the illegal extraction and resale of stolen oil. The armed groups are not the cause of *bunkering*, but rather, the result [of a mafia economy whose] bad practices have to a certain extent turned against their originators".[33]

29. See also the contribution of the author in the making of a 52-minute documentary movie, "Le delta du Niger: la guerre du brut" [The Niger Delta: The Crude Oil War], broadcast on Channel France Cinq on 11 October 2011.

30. UNEP, Environmental Assessment of Ogoniland, Nairobi, United Nations Environment Programme, 2011, p. 104.

31. E. Gelber, "Black Oil Business: Rogue Pipelines, Hydrocarbon Dealers, and the 'Economics' of Oil Theft", in: H. Appel, A. Mason and M. Watts (eds.), *Subterranean Estates: Life Worlds of Oil and Gas*, Ithaca: Cornell University Press, 2015, p. 275.

32. Social Action (Port Harcourt), Briefing No. 12, October 2016, p. 3.

33. K. Nwajiaku, "The Political Economy of Oil and 'rebellion' in Nigeria's Niger Delta", *Review of African Political Economy*, Vol. 39, No. 132, 2012, p. 306.

From Extraction to Extortion: Protection Rackets, Fraudulent Contracts and “Ghost” Workers

Given this background, the illegal extraction of crude oil is only one of the many aspects of the issue. The legal production of oil also provides opportunities for diversion, especially with sub-contractors and the national company NNPC. Thus various institutions are able to halt production to obtain bribes. For example, customs can delay the delivery of oil equipment or the immigration services can refuse to issue visas to expatriates in the industry. NNPC employees are known to create artificial bottlenecks to force TNCs to pay them bribes. Officially, they are supposed to approve all contracts and expenditures of more than $ 1 million in joint-ventures and $ 250,000 in production sharing contracts. These thresholds are much lower than standard industry practices: they therefore allow NNPC employees to obtain commissions more frequently in order to speed up outstanding issues.[34]

With regard to production, the embezzlement of oil wealth works at different levels. Firstly, at international level, the allocation of exploring or operating rights, the OML (*Oil Mining Leases*), entails paying bonuses which fuel corruption networks. Then, at national level, fraudulent and overbilled contracts also allow commission to be paid into accounts abroad. Finally, at a very local level, the collection of “tolls” starts in the villages through protection rackets of youth groups who threaten to sabotage pipelines if they are not provided with fictitious jobs. In some ways, the process is reminiscent of the “vaccinations against violence” (*vacuna*) that the oil companies have to pay to the ELN (*Ejército de Liberación Nacional*) [National Liberation Army] guerrillas in Colombia.

In Nigeria, the internal operations of TNCs are not immune to this problem. It happens that some disgruntled, dismissed, or retired employees take up arms against their former employer. Also, trade unionists can

34. A. Gillies, *Reforming Corruption Out of Nigerian Oil?*, Bergen: Chr. Michelsen Institute, 2009.

threaten to halt production without even using their right to strike.[35] Unions in the industry have real power. Connected to the TUC (Trade Union Congress), PENGASSAN (Petroleum and Natural Gas Senior Staff Association of Nigeria) represents the interests of white collars and can easily halt production. Its equivalent among blue collars is NUPENG (Nigeria Union of Petroleum and Natural Gas Workers), which has the power to immobilise the entire transport sector, as it is also influential downstream in the distribution of refined products and is affiliated to the largest federation in the country, the NLC (Nigeria Labour Congress), which controls the tanker drivers' union and the refuelling of petrol stations. Historically, clashes with the military dictatorship have sometimes been very harsh.[36]

Since the 1990s, the trade unions have however lost their power while a variety of intermediaries and sub-contractors emerged to collect a share of the oil rent. After the nationalisations of the 1970s, the new "indigenisation" policy of the 2000s has indeed encouraged the creation of small indigenous companies to support the "Nigerianisation" of the industry, a process called *local content*. Yet, most of these entities are briefcase companies which just take commissions on behalf of politicians or shady businessmen. Awarding them contracts helps to strengthen government clienteles, or conversely, to eliminate opponents from the competition.[37] Sometimes, these briefcase companies also fund political campaigns, for example during the 2003 presidential elections, when one of them obtained a crude oil export licence at $ 65 per tonne instead of $ 180 for the multi-nationals, with the instruction to pay the difference to the party in power at the time.[38] The number of local companies then exploded after the election of President Goodluck Jonathan in 2011.[39]

Briefcase companies fulfil many functions. They can be used to legally sell stolen oil, transfer money abroad, remit dividends to ministers, give salaries to fictitious employees, receive fees for fake consultants' services, hoard money embezzled by a corrupt politician, settle his hotel bills, buy him

35. The author witnessed this on an offshore platform where the staff were almost evacuated after a protester deliberately pulled the alarm to disturb work. Many witnesses also report hostage-taking internally and many work stoppages without notice.
36. In the 1970s, the government had planned to purchase 200 tankers to allow the NNPC to refuel the country without coming under the union's yoke. However, the military personnel were supposed to provide the drivers and keep the trucks under guard in the barracks. The project was finally abandoned.
37. After quarrelling with President Olusegun Obasanjo, Vice President Atiku Abubakar for example, saw his company Intels (Integrated Logistics Service Nigeria Limited) lose the Onne port management contract in late 2005, which supplied oil companies around Port Harcourt.
38. R. Rotberg (ed.), *Crafting the New Nigeria: Confronting the Challenges*, Boulder: Lynne Rienner, 2004, p. 242.
39. *Financial Mail*, 28 April 2016, pp. 30-31.

a private jet or a luxury car, etc. In practice, many briefcase companies play the role of gatekeepers that contribute to rising production costs. For the state, they further reduce the expected revenue from TNCs and operators looking to minimise their tax base by increasing their production costs.[40]

However, the largest black hole in the industry is the national oil company. Known for its lack of transparency, the NNPC is a kind of Bermuda triangle where public money disappears forever. It does not pay taxes and only transfers part of its revenue to the Central Bank. The problem dates from the oil boom in the 1970s and worsened with the economic crisis in the 1980s. In the first six months of 1993 alone, a committee responsible for reviewing the federal budget and led by a former Central Bank governor, Clement Nyong Isong, noted for example that the NNPC illegally maintained control over export revenue of $ 5.5 million.[41] The end of the military dictatorship in 1999 did not put an end to these practices. In ten years, the NNPC never paid dividends to Abuja from its liquefied natural gas plant (NLNG) in Bonny and export revenue from the Okono offshore field, OML 119, which has been operated by Agip since 2000. The amounts are not insignificant: from 2005 to 2014, it should have paid the equivalent of $ 12.3 billion![42] This is current practice. By the admission of a former Petroleum Minister under the military dictatorship, the figures provided by the NNPC, the Central Bank and the Accountant General usually contradict each other.[43] In Abuja, anonymous civil servants also confess that it is actually impossible to verify or dispute the NNPC's statistics.

Because of its majority position in joint-ventures and production sharing contracts with TNCs, the national oil company is in fact the linchpin of corruption in the industry. It is literally the federal government's "cash cow", as it has to give back in one form or another the subsidies it depends on to fund its operations and investments by negotiating ad hoc credit lines or rebates on the income that it is supposed to send to Abuja. The authorities do not hesitate to use the funds they need, particularly in electoral campaign periods. In the opinion of specialists, the NNPC is not designed and managed as a commercial enterprise, but as a "patronage instrument" which helps well-connected individuals and gatekeepers to exercise a sort of veto

40. A specific feature of Nigeria is that more than 70% of its oil platforms are registered in tax havens like Liberia, the Marshall Islands or Panama. Therefore, the operating companies are not required to follow the rules in effect in the country of production: a process which allowed Deepwater Horizon to partly escape legal proceedings in the United States following the oil spill it caused in the Gulf of Mexico. *Financial Mail*, 28 April 2016, pp. 30-31.

41. A. Nwankwo, *Nigeria: The Stolen Billions*, Enugu: Fourth Dimension, 1999, p. 112.

42. A. Sayne, A. Gillies and C. Katsouris, "Inside NNPC Oil Sales: A Case for Reform in Nigeria", New York: Natural Resource Governance Institute, 2015, p. 7.

43. Donald Dick Don Etiebet according to a 2009 statement quoted by *Africa Confidential*, Vol. 52, No. 23, 18 November, 2011, p. 4.

power and to collect commission on each transaction that they have to approve.[44]

The mechanisms of embezzlement are sometimes very sophisticated. We will only mention a few which have been the subject of formal or informal enquiries. To start with, at production level, the NNPC is hardly concerned with its costs. In the event of an audit, it may submit the same invoices several times. The case of oil pipeline monitoring is significant in this regard. Between 2009 and 2011, the NNPC paid $ 600 million to the army to secure its oil and gas facilities, without receiving any invoice. At the same time, its joint-venture partners, like Shell, Chevron and Agip, lost 136 million barrels because of crude oil theft, or the equivalent of $ 11 billion.[45] In order to limit their losses, the latter had to pay military personnel, take out contracts with private security companies and enter into agreements with "militants" from rebel groups who agreed to disarm in exchange for more or less fictitious employment.[46] The cost of monitoring the oil pipelines alone soared while there was a reported increase in crude oil thefts. According to a Senate report, it went from $ 2.23 million in 2012 to $ 11.15 in 2013 while the shortfall due to *bunkering* rose to $ 809 million in 2013.[47] In addition, from 2011, the NNPC signed overbilled transport contracts of crude oil by boat, officially to avoid theft of onshore oil pipelines.

The share of crude oil that the NNPC statutorily recovers in the joint-ventures or production sharing contracts also provide many opportunities for embezzlement. Out of two million barrels/day that Nigeria still manages to extract, 445,000 are supposed to return to the country's four refineries to meet the domestic market's needs. This quota is based on the facilities' maximum capacity. Yet the four refineries have never run at full production. As a result, between 50% and 90% of the 445,000 barrels allocated to the NNPC are neither refined or exported. The national oil company then disposes of the unused stock after a period of three months. Hence it can legally buy it to the government with a discount and gamble on exchange rates and international prices to resell it with a profit to traders like Glencore, Trafigura and Vitol in Switzerland.[48] The authorities estimate that between 2002 and 2012, the Nigerian state lost up to $ 5 billion by letting

44. M. Thurber, E. Ifeyinwa, and P. Heller, "NNPC and Nigeria's Oil Patronage Ecosystem", Stanford University/Freeman Spogli Institute for International Studies, 2010, p. 7.

45. I. Sadra and Co Chartered Accountants, *Physical and Process Audit for the period 2009 to 2011, Oil & Gas Audit*, Abuja: Nigerian Extractive Industries Transparency Initiative, 2013, p. 25.

46. NEITI, *Financial Flows Reconciliation Report: 2009 – 2011 Oil & Gas Audit*, Abuja: Nigerian Extractive Industries Transparency Initiative, 2013, p. 21; I. Sada and Co Chartered Accountants, *op. cit.*, 2013, p. 16.

47. Senate Committee on Finance, *Report on the Investigation of the Alleged Unremitted US$49.8 Billion Oil Revenue by NNPC*, Abuja, May 2014, p. 38.

48. Berne Declaration, "Les affaires obscures des négociants suisses au Nigeria", Lausanne, DB, 2013, p. 19.

the NNPC get hold of crude oil bought at below-market prices and exchange rates. The shortfall even doubles if revenue from liquefied natural gas sales are included.[49]

In principle, the profits made should be used to cover the NNPC's losses, particularly in the petrochemical sector and in petrol distribution at subsidised prices. By the authorities' admission, no one knows however where the money disappears to.[50] Due to the price differences in its favour, the NNPC has no interest in boosting the refineries' processing capacity. In practice, it prefers to continue to have a volume of crude oil that it can export discreetly. It very frequently tries to sell more than it actually has, for example up to 50% more than its stock in 2011.[51] To maximise its profits, the NNPC in fact seeks to create situations of artificial scarcity which exacerbate competition between the traders and which encourage the payment of bribes to get hold of a share of the crude oil initially intended for Nigerian refineries…

49. M. N. Ribadu, "Report of the Petroleum Revenue Special Task Force", Abuja, PRSTF, 2012, 176.
50. *Ibid*.
51. A. Sayne, A. Gillies and C. Katsouris, "Inside NNPC Oil Sales: A Case for Reform in Nigeria", *op. cit*., p. 54.

From Export to Import

Embezzlement is undoubtedly the greatest at the level of exports. As in Congo-Brazzaville, the oil terminal meters are poorly calibrated and the loading control of ships is very approximate.[52] There are many reports of civil servants or private company employees manipulating the measuring instruments and supertankers' freight documents in order to under-estimate the volumes transported.[53] Once again, the NNPC plays a key role. In 2013, for example, the public company was responsible for selling some 935,000 barrels per day, or 43% of the country's production and 61% of total government revenue.[54] However, Nigeria is an exception among the world's leading oil producers. It is indeed the only country to sell 100% of its production to private traders. Usually, national companies develop commercial arms to sell their crude oil to refineries abroad. The NNPC has subsidiaries such as Hyson, Calson, Napoil, Duke Oil and Nigermed. Yet their sales capacity is extremely limited internationally. In practice, the NNPC's business model is rather closer to those of the national companies of South Sudan and Congo-Brazzaville, two countries which are not really known for their transparency and good governance.

The sale of crude oil to traders in fact paves the way for all kinds of fraudulent operations. Some of these private companies do not even have an ongoing valid contract, are not found in the official client lists and are unknown in the business world. Additionally, the sale of crude oil by the NNPC is discretionary without a genuine call for tender.[55] Payments are sometimes made into offshore accounts despite rules that prohibit this. Finally, the NNPC sometimes sells crude oil directly to governments which do not have refining capacity, like Malawi in 2014, or which re-export cargo

52. T. Porcher, *Un baril de pétrole contre 100 mensonges*, Paris: Res Publica, 2009, p. 105.
53. Author's interviews with anonymous traders in South Africa, Nigeria and Switzerland between 2013 and 2016.
54. A. Sayne, A. Gillies and C. Katsouris, "Inside NNPC Oil Sales: A Case for Reform in Nigeria", *op. cit.*, p. 20.
55. Sued from 2014 by the US Department of Justice and then the Federal High Court of Nigeria, the Minister of Petroleum from 2010 to 2015, Diezani Alison-Madueke, was for instance accused of having stolen $ 153 million from the NNPC by entrusting two partners, Jide Omokore and Kola Aluko, with crude oil export contracts of a value of $ 1.5 billion which helped her to buy luxury properties in London and Lagos. In return, Diezani Alison-Madueke allegedly financed President Goodluck Jonathan according to a member of the government, Mohammed Bolaji, who was dismissed before the 2015 elections because his mentor had switched to the opposition. See M. Bolaji, *On a Platter of Gold: How Jonathan Won and Lost Nigeria*, Lagos: Kachifo, 2017, p. 350.

supplied in this way. These discount sales are very political and are arranged by a variety of unprofessional intermediaries who earn substantial commissions.

According to some authors, such contracts are in fact part of a diplomatic game to expand the country's international influence, particularly in sub-Saharan Africa.[56] This was probably true after the Yom Kippur War in 1973, when Lagos sold oil at cost price to Senegal, Liberia and Sierra Leone to enable them to circumvent the Arab embargo against Israel. But nowadays, state-to-state arrangements mainly seem to offer an additional means of earning commissions on fraudulent contracts.[57] From one year to the next, the erratic variations in the selection of targeted countries and export volumes dismiss the hypothesis of a diplomatic game. In general, the government promises more than it can give, creating an expectation which forces the "recipients" to pay bribes to get their share. As a result, five of Nigeria's client states were hit by scandals related to these shady deals.[58]

However, the story of embezzling the oil wealth does not end with the export of crude oil. Because its refineries are insufficient and only operate on average at 20% of their capacity, Nigeria is unable to meet the needs of its domestic demand. Therefore, it exports crude oil, but must import refined products at an estimated cost of $ 45.6 billion for the period 2009-2011.[59] Such trade gives rise to all sorts of trafficking, as the state pays compensation to cover the difference between the international market price and the petrol pump sales price, which is subsidised.[60] The situation is all the more ludicrous as Nigeria continues to export refined goods to neighbouring countries.[61]

56. B. Augé, "Le pétrole au Nigeria, instrument de puissance et miroir d'une fragilité étatique", *Hérodote*, No. 159, 2015.

57. The scandal corruption which embroiled the Zambian President, Rupiah Banda, in 2013, also involved a Nigerian company, Sarb Energy, whose Board of Directors included a retired general, Sylvia Ogbogu, and a former senator, Nimi Barigha-Amange, from the ruling party in the Bayelsa East senatorial district in Bayelsa State between 2007 and 2011. See A. Sayne, A. Gillies and C. Katsouris, "Inside NNPC Oil Sales: A Case for Reform in Nigeria", *op. cit*, p. 15.

58. *Ibid.*, p. 9.

59. I. Sadra and Co Chartered Accountants, *op. cit*, p. 22.

60. The calculation is made from the difference between the retail price, which is set by the state and is consistent throughout the country, and the expected open market price, which, in addition to the oil price, consists of 85% of customs duties and transaction costs for the purchase, shipping and storage of refined products. Initially, the petrol pump sales price was relatively stable and followed the international market prices between the two oil booms of 1973 and 1979. However, the discrepancy with the actual crude oil production costs in Nigeria widened during the following decade, when the federal government wanted to mitigate the effects of the economic crisis by refusing to raise the price of petrol. Within the federation, state governors are however in favour of removing subsidies which are deducted from their budget by the central government.

61. About a fifth of its production of refined products during the 1990s for example. See V. Morillon and S. A. Afouda, *Le trafic illicite des produits pétroliers entre le Bénin et le Nigeria : vice ou vertu pour l'économie béninoise ?*, Cotonou: Laboratoire d'analyse régionale et d'expertise sociale, 2005, p. 38.

State subsidies to lock in the petrol pump sales price are considerable and have given rise to many investigations without ever leading to an in-depth reform of the system.[62] For example, in 2014, compensation claimed by private distributors rose to $ 2.9 billion, five times more than in 2007, and they drew off the equivalent of 13% of the federal government's budget.[63] This year, the state claimed to have paid $ 5 billion to stabilise the petrol pump sales price. The difference between the two figures corresponded fairly well with calculations by a Parliament's committee of enquiry and a Swiss NGO, *Déclaration de Berne* (Berne Declaration), which estimated the amount of subsidies that the Nigerian government was unable to account for at $ 6.8 billion between 2009 and 2011.[64]

The private and public sectors benefit from this market distortion. The NNPC, to start with, receives compensation to cover its losses in petrol distribution at a heavily-discounted price. However, the payments made by the federal government have always exceeded the losses posted in the company's balance sheet since NEITI started its audits in 2006.[65] It was only in 2014 that the NNPC vaguely started to provide explanations about this, yet very incompletely about the use of its subsidies rather than its actual costs in the distribution sector.

A multitude of small private companies also benefit from the situation. For example, the embezzlement of subsidies consists of importing a cargo whose volume is lower than that reported. Another possibility, is that the trader organises all their transactions abroad in order to be paid in dollars, to avoid paying port taxes in Lagos and to escape Nigerian custom checks, even trans-shipping cargo from Cotonou or Lome. It is not unusual to see falsified marine documentation to obtain a higher subsidy, by replacing the purchase date with that of a day when the oil prices are higher.[66] Sometimes "ghost boats" claim to unload their cargo in Lagos or Cotonou when at the same time they were traced in the China Sea.[67]

The scams continue at the petrol stations. Unscrupulous managers rig the pump meters or add water to their tanks. Some stations only exist on paper in order to benefit from a right to purchase at a discount price from NNPC refineries. For example, in Rivers State the authorities have turned a blind eye

62. By adding up the compensation paid to the public sector and to private distributors, the total amount of subsidies reached $ 11.2 billion according to the Minister of Finance, Ngozi Okonjo-Iweala in 2011, or 2.7% of GDP and 38% of the federal government's budget. See N. Okonjo-Iweala, *Fighting Corruption Is Dangerous: The Story behind the Headlines*, Cambridge: MIT Press, 2018, p. 34.

63. SDN, Nigeria's Fuel Subsidy, Port Harcourt: Stakeholder Democracy Network, 2015, p. 23.

64. Berne Declaration, "Les affaires obscures des négociants suisses au Nigeria", *op. cit.*, p. 19.

65. A. Sayne, A. Gillies and C. Katsouris, "Inside NNPC Oil Sales: A Case for Reform in Nigeria", *op. cit*., p. 13.

66. Berne Declaration, Les affaires obscures des négociants suisses au Nigeria, *op. cit.*, p. 19.

67. N. Okonjo-Iweala, *Fighting Corruption Is Dangerous: The Story behind the Headlines*, *op. cit*., p. 38.

to these practices in order to buy peace from gang leaders in the region. At Port Harcourt, for instance, Soboma George received the franchise of a very coveted and lucrative petrol station in the old colonial city, while his rival, Ateke Tom, built his own private pipeline to his stronghold in the Okrika neighbourhood to sell some of the Eleme refinery's production.

Diversion also occurs at oil pipelines. As with the *bunkering* of crude oil, "the evaporation" of refined products is extremely impressive, even if it is hardly ever spoken about. The process is slightly reminiscent of the mechanism of "milking the cow" (*ordeña*) by the Mexican mafia or the Colombian paramilitaries, who in the early 2000s, had the reputation of earning more money through smuggling petrol than the State with its crude oil exports.[68] In principle, the normal evaporation rate for refined and flammable products is around 0.5% in pipeline transport operations. But in Nigeria, it reaches up to 38% for the type of petrol known as PMS (Premium Motor Spirit) on the section of road between the Atlas Cove depot in Lagos on the coast, the Mosimi depot in Ogun State and the Kaduna refinery in the North.[69] Obviously, such a loss cannot only be explained by the lack of maintenance of pipelines. It owes a lot to the thefts operated by criminal organisations, or sometimes, onlookers attracted by the opportunity of obtaining free supplies after an act of sabotage.

Countries neighbouring Nigeria, including Cameroon, Benin, Chad and Niger, are not spared from smuggling. Illegal imports of subsidised or trafficked Nigerian petrol have indeed increased significantly since the 1980s. In Benin, for example, this illegal trade is very fragmented. Yet it covers nearly half of the country's domestic requirements and accounts for around two-thirds of the volume supplied by official networks. If the State's customs revenues are suffering, the national economy is benefiting from a disguised subsidy and significant contribution to the labour market. It is estimated that the smuggling of hydrocarbons directly employed between 17,000 and 42,000 people in 2004, or more (for the higher estimate) than in the civil service, which was the largest employer in the country, with 40,000 officials.[70]

68. P. Le Billon, *Wars of Plunder: Conflict, Profits and the Politics of Resources*, London: Hurst, 2012, p. 75.
69. I. Sadra and Co Chartered Accountants, *Physical and Process Audit for the Period 2009 to 2011*, Oil & Gas Audit, op. cit., 2013, p. 19.
70. At the time, the sector earned some $ 65 millions a year and the average monthly gross margin of smugglers was between CFA Francs, 70,000 and 170,000 (between $ 130 and $ 320). See V. Morillon and S. A. Afouda, *Le trafic illicite des produits pétroliers entre le Bénin et le Nigeria*, *op. cit.*, p. 121.

Development Projects and Corporate Social Responsibility: Formal Means of Collecting Rent

In Nigeria, on the other hand, trafficking in refined products only accounts for a small part of the political economy in the oil industry. In order to analyse the various ways of embezzling the rent, attention should be paid to the many public and private institutions that are officially supposed to redistribute the profits from the export of crude oil. Embezzlement at federal government level, for example, highlights the importance of sovereign wealth funds, whose investments abroad are opaque and outside of the democratic control of parliament.

Established by General Sani Abacha's junta in July 1994, and led by Muhammadu Buhari, the *Petroleum Special Trust Fund* acted as a parallel office that was not accountable to anyone. Funded by the rising oil prices, it suffered many frauds and part of its funds vanished between Switzerland and Jersey. The *Petroleum Special Trust Fund* ended up being dissolved in July 1999 at the end of the military dictatorship. However, the organisations which replaced it have not escaped these shortcomings. For example, the *Subsidy Reinvestment and Empowerment Programme* (SURE-P), which was launched in early 2012, was supposed to reinvest in social welfare the savings from reduced subsidies for the petrol pump price. Its management was so challenging that it led its director, Christopher Kolade, to resign in 2014, because he did not get the required go-ahead from President Goodluck Jonathan to be allowed to dismiss its most corrupt employees.[71]

One notch below federal level, the Niger Delta States also have their own organisations to collect the rent. Indeed, armed protests against oil companies have led the federal government to set up specific institutions to develop the region. These have not fooled anyone. When the authorities established a Federal Ministry of Niger Delta Affairs in late 2008, for example, the rebels from MEND (Movement for the Emancipation of the Niger *Delta*) denounced the creation "of an umpteenth channel of corruption at the service of the

71. M. Bolaji, *On a Platter of Gold: How Jonathan Won and Lost Nigeria*, *op. cit.*, 2017, p. 354.

government's political clienteles."[72] The 2010 Local Content Act was also widely criticised. In theory, it is intended to promote technology transfers, vocational training, and recruitment of indigenous people from the Niger Delta in the oil industry. However, in practice, it has mainly served to sanctuarise the charging of commission through fraudulent contracts. In Article 92, it even authorises its Board of Directors to formally receive "gifts in the form of money, land or other property."[73]

Due to its particular geographical features, the Niger Delta undeniably has specific development needs. In March 1961, barely a year after independence, the authorities set up a dedicated body, the *Niger Delta Development Board*, which disappeared after Nigeria's first military coup in July 1966. The federal institutions which succeeded it then profited from the oil boom in the 1970s. Despite very substantial budgets, their performance was undermined by corruption, racketeering, and lack of supervision on the use of money from central government. OMPADEC (Oil Mineral Producing Area Development Commission), which was established in July 1992, was ruined in this way, by paying advances to sub-contractors who never finished their contract.[74] The few projects that were supposedly finished, did not work and had to be taken over by the federal government or international oil companies. Albert Horsfall, OMPADEC's Executive Director, was finally dismissed for fraud in December 1996. His successor, Eric Opia, was also dismissed two years later for the disappearance of several billion Naira. He was replaced in November 1998 by a retired Vice-Admiral, Preston Omatsola, who settled for winding up OMPADEC before the civilian government returned to power.

The NDDC (*Niger Delta Development Commission*), set up in June 2000 at the end of the military dictatorship, did not meet people's expectations either. For example, after four years of existence, an independent assessment showed that 100 of the 358 contracts allocated to local contractors had never been finished.[75] In 2016, an audit by the Senate and the House of Representatives confirmed that 80% of projects were unfinished. The NDDC was particularly criticised for focusing on the most expensive infrastructure projects that were most likely to pave the way for overbilling, such as well-drilling, road-building or bus purchases. There had clearly been no feasibility

72. K. Omeje, *High Stakes and Stakeholders: Oil Conflict and Security in Nigeria*, Aldershot: Ashgate, 2006, pp. 151-162.

73. Nigerian Oil & Gas Industry Content Development Act No. 2: "The Board may accept gifts of money, land or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift."

74. T. Imobighe, "Conflict in Niger Delta: A Unique Case or a 'Model' for Future Conflicts in Other Oil-Producing Countries?", in: R. Traub-Merz and D. Yates (eds.), *Oil Policy in the Gulf of Guinea: Security & Conflict, Economic Growth, Social Development*, Lagos: Friedrich-Ebert-Stiftung, 2004, p. 107.

75. K. Omeje, *High Stakes and Stakeholders: Oil Conflict and Security in Nigeria*, *op. cit*., pp. 151-162.

study of these projects, which were not designed to last and which were thought up without the local authorities, at the risk of duplicating initiatives. In order to improve its brand image, the NDDC has admittedly published glossy catalogues of its achievements and put a list of 8,000 projects online.[76] Its communication attempts have nevertheless been criticised by local activists as just a "billboard".[77]

Like its predecessors, the NDDC actually experienced many corruption scandals which highlighted its collusion with the political class.[78] The Auditor-General of the Federation's office noted the disappearance of 183.7 billion Naira between 2008 and 2012.[79] In its report, it also criticised the increase in fictitious positions in an institution which had nearly half-a-dozen directors! As for the state-level equivalents of the NDDC, they were not subject to such enquiries and nobody really knows anything about the performance of the SOPADECs (State Oil-Producing Areas Development Commissions), such as DIDA (Delta State Investments Development Agency), established in 2017, or RSSDA (Rivers State Sustainable Development Agency), launched in 2007.

In the same vein, we should not forget private institutions which, under the pretext of development and *local content*, also participate in the embezzlement of the oil wealth. Corporate social responsibility, for instance, compelled TNCs to use NGOs to implement development programmes… and collect a share of the rent. This applies to the Kiisi Trust, a foundation created in honour of the writer Ken Saro-Wiwa.[80] Famous for having been hung after an extra-judicial trial by General Sani Abacha's junta in 1995, he fought to defend the rights of the Ogoni people in the Niger Delta. One of his sons, Ken Saro-Wiwa Junior (who died in 2016), founded the Kiisi Trust in 2009, to manage the $ 5 million that the US justice system ordered Shell to pay the victim's family in return for dropping charges of collusion with the military dictatorship. The foundation was supposed to fund development projects in Ogoniland; yet it waited for ten years before becoming operational and paying its first grants in 2018.

76. Niger Delta Development Commission, available at: http://nddcproject.nddc.gov.ng.

77. Author's interview with one of the rebel leaders, Asari Dokubo, in Warri in 2011. For a positive (and extremely) rare perspective on OMPADEC and the NDDC, see S. Omotola, "From the OMPADEC to the NDDC: An Assessment of State Responses to Environmental Insecurity in the Niger Delta, Nigeria", *Africa Today,* Vol. 54, No. 1, 2007, pp. 72-89.

78. In violation of the electoral code, the NDDC, for example, used to make donations to support the PDP (People's Democratic Party) and the presidential campaign during the 2000s and until the opposition's victory in 2015. See A. Agbaje, A. Akande, and J. Ojo, "The People's Democratic Party: From the 1999 Transition to the 2015 Turnover", in: C. LeVan and P. Ukata (eds.), *The Oxford Handbook of Nigerian Politics*, Oxford: Oxford University Press, 2018, p. 360.

79. S. Akpe, "Auditor-General's Report: Is NDDC Guilty as Charged?", Vanguard, 16 August 2015.

80. *Africa Confidential*, Vol. 55, No. 11, 30 May 2014, p. 10.

Audits without Reforms

Exploration, extraction, the export of crude oil, the import of refined products, petrol distribution and the establishment of development institutions for the Niger Delta each contribute in their own way to the embezzlement of the oil wealth. Action is simultaneously required at all these levels to improve the system. However, efforts in this area have been rather disappointing. Previous investigations have not reformed the industry and have very rarely led to the arrest and subsequent conviction of corrupt managers or politicians. For instance, investigations led by judges Ayo Gabriel Irikefe in 1980 and Salihu Modibbo Alfa Belgore in 1984, and then by General Emmanuel Abisoye in 1994, merely pointed out some financial problems without identifying the origin of large-scale embezzlement within the NNPC. More recently in 2012, a committee of enquiry into the petrol subsidy scam was even discredited by its president, Member of Parliament Farouk Lawan, who had to resign after having been accused of taking bribes to remove from a blacklist two private companies which benefited from government subsidies.

Also, financial audits commissioned by the government often gave the impression of being used to cover up wrongdoing, a bit like in Angola, where in 2000, the accountancy firm KPMG (Klynveld, Peat, Marwick & Goerdeler) was invited to conduct a simple diagnosis of the oil industry instead of setting up a proper body to monitor the national accounts.[81] As for TNCs, they are not fooled by this type of exercise. In Nigeria in 2007 for example, Shell stopped commissioning KPMG for audits which systematically concluded that its community development programmes were successful.

In general, whistle-blowers have been poorly rewarded for their efforts. They are most at risk locally. In the Delta State, for example, the chairman of Forcados LGA had to flee and hide after exposing the involvement of the army and tribal leaders in *bunkering*.[82] Corruption cases are generally more publicised at national level. The most famous case is probably that of the Governor of the Central Bank, Sanusi Lamido, who was suspended from office in February 2014, after reporting a multi-billion-dollar hole in the NNPC's accounts. The scandal became particularly significant because the

81. D. Djoumessi, *The Political Impact of the Sino-U.S. Oil Competition in Africa: An International Political Explanation of the Resource Curse in African Petro-States*, London: Adonis & Abbey, 2009, p. 239.
82. F. Zikoregha, Futek [9 May 2008], "Illegal Bunkerers Want to Kill Me", *The Nation*, p. 13.

incumbent president, Goodluck Jonathan, was preparing his campaign for the general election in March 2015, which he lost. Indeed, the Nigerian press published a confidential letter from Sanusi Lamido, according to which the national oil company owed $ 49.8 billion to the Central Bank for the January 2012-July 2013 period. In December 2013, a special committee confirmed that the NNPC was unable to account for the disappearance of $ 10.8 billion. Sanusi Lamido, was dismissed because he may have over-estimated the embezzled amount of money.

In this regard, it is important not to make mistakes about the different ways of tracking funds. There is no lack of good ideas that did not achieve anything. Inspired by the Kimberley Process, which aims to improve the traceability of diamonds produced in Africa, it has been recommended for example to mark crude oil to prevent *bunkering*. However, the project only focused on export flows. It came up against numerous technical hurdles and did not appear to be feasible. Others suggested certifying international oil companies that comply with human rights and are committed to be transparent. Like the Fairtrade label of Max Havelaar in the coffee business, the consumer would then agree to pay more for petrol to finance the development of local communities and non-polluting technologies.[83] However, again, such a project disregarded a significant player: the Nigerian state and its public company, the NNPC.

From this perspective, the Nigeria Extractive Industries Transparency Initiative (NEITI) seemed more credible, as it initially had a holistic ambition and aimed to cover all stages of production and export in the industry. However, in practice, it just checked the veracity of financial flows coming from operating companies to the central bank. It was not interested in the authorities' extravagant expenditure and largely ignored entire sectors of embezzlement of wealth, particularly *bunkering* and the artificial inflation of production costs to reduce the tax base of the industry. With regard to governance, NEITI's attempts at reform have failed as they quickly came up against President Olusegun Obasanjo's manoeuvres when he wanted to buy votes and amend the Constitution in order to be allowed to run for a third term in 2007. Thus the NEITI Act of 2007 did not allow financial audits to be used to initiate legal proceedings against private or public sector companies. As for the NEITI secretariat, it did not see fit to call for legal proceedings and did not seek to co-ordinate its efforts with the Nigerian anti-corruption agency, the EFCC (Economic and Financial Crimes Commission). And for good reason: it was accused of overbilling the cost of

83. T. Haller *et al*. (eds.), *Fossil Fuels, Oil Companies and Indigenous Peoples: Strategies of Multinational Oil Companies, States, and Ethnic Minorities – Impact on Environment, Livelihoods, and Cultural Change*, Berlin: Lit Verlag, 2007, p. 589.

training sessions in 2009 and its Director of Services, Stanley Rerri, was dismissed in 2010 as he had exposed internal embezzlement.[84]

Some authors see NEITI as a mere public relations exercise intended to restore the industry's image.[85] The Initiative, which is highly dependent on funding and human resources from foreign donors, has not allowed Nigerian citizens to hold their leaders accountable and carry on investigations. Its audits are very difficult to understand and cannot be used by the common man. Furthermore, most people ignore its activities: NEITI is the least known of all the anti-corruption agencies according to opinion polls conducted by the United Nations in 2017.[86] There are also politics and a man behind this poor performance: its founder President Olusegun Obasanjo. When he was elected in 1999, the latter launched a crusade against corruption to comply with the reputation he had gained as Chairman of Transparency International, rather than to satisfy a pressing demand from local voters.[87] NEITI was thus established to enable Nigeria to be among the first developing countries to join the Initiative of British Prime Minister Tony Blair. The approach has no doubt been effective in terms of communication. However, it did not fulfil the Nigerian people's demand for justice, particularly in the Niger Delta.

84. S. Rerri, "Fraud At NEITI: An Attempt To Silence The Whistle Blower", *Sahara Reporters*, 20 August 2010, available at: http://saharareporters.com.

85. N. Shaxson, *Nigeria's Extractive Industries Transparency Initiative: Just a Glorious Audit?*, London: Chatham House, 2009, p. 49.

86. UNODC, "Corruption in Nigeria. Bribery: Public Experience and Response", Vienna: United Nations Office on Drugs and Crime, 2017, p. 64.

87. N. Shaxson, "Oil, Corruption and the Resource Curse", *International Affairs*, Vol. 83, No. 6, 2007, p. 1134.

Some Lessons by Way of a Conclusion

In conclusion, several lessons can be drawn from this study, and more generally, from analysing the complexity of embezzlement mechanisms for oil and gas production. Firstly, TNCs, which attract so much attention from the media and NGOs, are only one part of the problem, among many others. *A priori*, they have little interest in maintaining a system which impacts on their performance and which has made Nigeria the third most expensive country in the world in terms of extraction costs.[88] The embezzlement of oil revenue above all raises the question of the state's role, both at federal and local level. In other words, it is important to consider not just the global aspect of financial networks, but also the moral economy of corruption in the creeks of the Niger Delta.

Secondly, the variety of stakeholders and the complexity of embezzlement mechanisms highlights the limitations of NGO campaigns or the Extractive Industries Transparency Initiative. Indeed, the latter urge TNCs to declare what they pay in producing countries. Financial audits subsequently focus on inflows into central banks. But they neglect or completely omit to investigate outflows, where a major part of rent embezzlement and capital flight occurs.

Finally, analysing the corruption in the oil industry emphasises the need to improve governance in Nigeria. The easy money of the 1970s boom exacerbated problems that already existed and which are not limited to the extractive industries. Since then, the embezzlement of public money from oil rent has spread to all government clienteles. The fight against corruption must therefore involve the authorities at the highest level politically and not be reduced to statements with a view to removing opponents internally, as President Muhammadu Buhari and his predecessors did. There is a need to break the ruling class's immunity, to reform the judiciary, and to support "whistleblowers" without also forgetting to work "from the bottom up" with the people and communities right in the Niger Delta.

88. M. Page, *Nigeria: What Everyone Needs to Know*, Oxford: Oxford University Press, 2018, p. 173.