CHAPTER 7

State Control of Crude Oil in Africa: Nigeria and Angola in Focus

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Introduction

Nigeria and Angola are two African countries easily identifiable as very wealthy. They are the top two producers (see Figure 1 and Figure 2) and exporters of crude oil in sub-Saharan Africa. In 2023, Nigeria exported 1.5 million barrels per day, and Angola accounted for 1.1 million, jointly raking up the majority of export earnings from crude oil in the region. Sadly, Nigeria's inability to efficiently utilize its crude oil revenue to competitively propel its economy upward is similar to Angola's reality. In both countries, as is the case in virtually all other oil-producing countries, control and majority ownership of the crude oil sector lies in the state's hands. But unlike elsewhere across the world—where wealth in crude oil has transformed economies—state agencies in Nigeria and Angola are responsible for corruptly mismanaging the returns from crude oil exports. The mismanagement has deprived the public of equitably benefiting from the wealth and indirectly allowed certain economic problems like poverty and inflation to fester. Returns realized from crude oil exports should be the people's money, not a national cake to be carved up by politicians and their corporate cronies. In Nigeria and Angola, the national cake analogy is true. It is a problem as old as the discovery of crude oil in both countries.

The state control of crude oil under colonial rule was initiated for no other reason than to benefit European colonial powers. When African leaders implemented the same policy at the moment of independence, it was largely to ensure that African interests were protected and that African wealth benefitted Africans. Instead, what has happened is the direct opposite: the interests of Africans are not respected by the African leaders who control the trade in crude oil, and the derived wealth has not significantly brought oil-rich countries like Nigeria and Angola towards deserved economic prosperity.

Without a doubt, citizens of both countries should live comfortably, enjoying great public infrastructure on the back of a stable economy. It defies reason to know that in 2023, Nigeria's poverty rate, according to the World Bank, was a staggering 38.9 percent (87 million of the country's roughly 223 million people). In that year, the country was home to nearly 12 percent of the world's extreme poverty population. Also, in 2023, the World Bank projected that 11.7 million people out of Angola's 35 million population (34 percent) lived in poverty. Interestingly, while Nigeria's infrastructure deficit is above 50 percent, Angola does not seem to share a similar infrastructure problem. Amid these realities, it begs the question: what could be responsible for the mismanagement of their crude oil earnings? Indeed, the list of suspicions is lengthy: corruption in state agencies, foreign meddling, monopoly, cronyism, etc. My interest is in accounting for the first item.

NNPC and Nigeria's Crude Oil Mess

The British colonial government first monopolized oil exploration rights in Nigeria in 1914—a recurring attitude across colonial Africa. Britain introduced the Mineral Oil Ordinance in the same year. A section of the ordinance provided that "[n]o lease or license shall be granted except to a British subject or a British company registered in Great Britain or a British colony and having its principal place of business within Her Majesty's dominion."[1] In other words, no other individual or corporation, not even Nigerians, had the right to explore oil on their ancestral lands. Britain subsequently granted an exclusive exploitation license to Shell D'Arcy in 1938. The company did not make a successful drill until 1956 in Oloibiri, an area in modern Bayelsa State in the country's Niger Delta region. Shell D'Arcy and its spinoff, Shell Mex-British Petroleum (BP), controlled production activities through the next decade. This exclusive access was lifted in 1958, allowing investments by private American corporations. Britain's overlord of the sector remained until a new law gave Nigerians the right to participate in the 1950s.[2] However, the indigenous fishing communities, including the Ijaw and Itsekiri peoples, who are the aboriginal inhabitants of the Niger Delta area, have never had direct and complete control of the wealth extracted from their ancestral land. Both the Ijaw and the Itshekiri had somewhat similar traditional socioeconomic systems that emphasized family and clan ownership of primary sources of wealth.

The post-independence government of Nigeria later acquired 35 percent ownership in the oil sector in 1973. Following the creation of the Nigerian National Petroleum Corporation (NNPC) in 1977, state participation in the oil sector increased. The military government of Yakubu Gowon assumed majority control of foreign oil companies in 1971 after the horrific Biafran War. State equity reached 80 percent in August 1979 with the nationalization of BP's shares. From 1979, revenue from crude oil has generally constituted 90 percent of all state export earnings. As recently as 2023, crude products accounted for over 91 percent (roughly $60 billion) of the total value of exports from Nigeria.[3] Before 1999, successive military heads of state freely awarded exploitation licenses to themselves and their cronies. The ability of leaders to freely and illegally control licensure points to a major loophole within the state-controlled system. President Olusegun Obasanjo revoked eleven such licenses when he assumed office in 1999.[4]

Gross mismanagement of oil revenue by the NNPC coupled with a sharp fall in global oil prices nearly destroyed Nigeria's economy in the 1980s. But General İbrahim Babangida opened the sector to privatization in 1986, just one year after seizing power. He made critical fiscal readjustments in agreements with private oil companies, culminat-

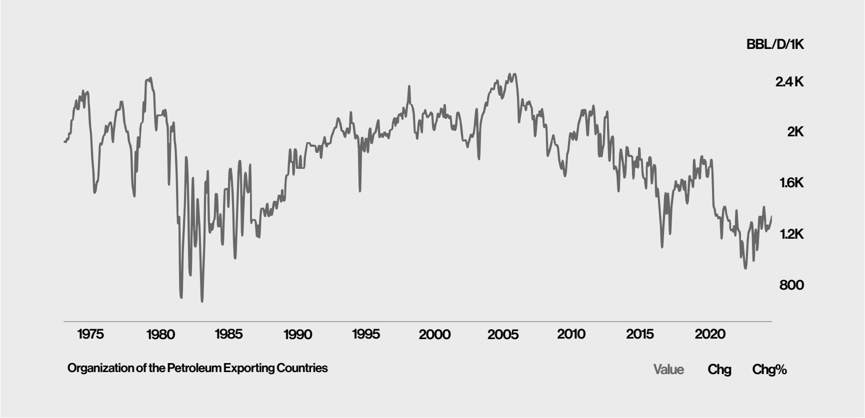
1 Patrick Okonmah, "Rights to Clean Environment: The Case for the People of Oil-Producing Communities in the Niger Delta," *Journal of African Law* 4, no 1 (1997): 43-67.

2 Jedrzej Frynas, *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities* (Münster: LIT Verlag, 2000), 15.

3 "Contribution of Oil and Natural Gas Sector to GDP in Nigeria 2018-2023," Statista, accessed September 21, 2016, https://www.statista.com/statistics/1165865/contribution-of-oil-sector-to-gdp-in-nigeria/#:~:text=In%202023%2C%20over%2091%20percent,approximately%2060%20billion%20U.S.%20dollars.

4 Alexandra Gillies, "Reforming corruption out of Nigerian oil?" *Chr. Michelsen Institute*, accessed December 20, 2020, https://www.cmi.no/publications/3295-reforming-corruption-out-of-nigerian-oil-part-one.

Figure 1: Crude Oil Production in Nigeria 1970–2024 per barrel in millions



Source: Trading Economics and the Organization of Petroleum Exporting Countries
https://tradingeconomics.com/nigeria/crude-oil-production

ing in several memoranda of understanding. These agreements created an avenue for foreign private companies, including Exxon, Du Pont, and Statoil-BP, to earn drilling licenses. In 1966, there were only eight licensed oil companies in Nigeria. By 1998, more than fifty such companies existed; forty-six were owned by Nigerians.[5] Oil production drastically increased throughout this period compared to the preceding decade. These improvements, however, still did not give any direct or absolute ownership to the indigenous people of the Niger Delta. Meanwhile, barely two years after its establishment in 1977, the NNPC, which was then the controlling agency for the Ministry of Petroleum and Energy, was embroiled in a major corruption scandal that involved the disappearance of $2.8 billion in oil revenue. This trend of mismanagement and corruption has since become synonymous with the NNPC.

One of the most brazen cases of such mismanagement was the 2011 Oil Prospecting License 245 (OPL 245) granted to Shell and Eni. Both companies allegedly paid an undervalued price of $1.1 billion to Malibu Oil and Gas, a company secretly owned by the former Nigerian petroleum minister Dan Etete. The minister had allocated the control of OPL 245 to his private company, Malibu Oil, in 1998 while still in office.[6] Both Shell and Eni reportedly paid millions of dollars in bribes to state officials to seal the undervalued deal in secret rather than officially engaging with the Nigerian state. The scandal went as far as the country's highest office. Nigeria's President Goodluck Jonathan, Petroleum Minister Deziani Allison Madueke, and Attorney General Mohammed Adoke were alleged to have received such secret payments.[7] The Nigerian government only officially received a $209 million signature bonus from the deal. It was estimated that the country lost almost $6 billion in potential revenue from the OPL 245 deal.

In a similar case in 2009, an investigation by the US Federal Bureau of Investigation (FBI) uncovered a decade-long bribery scheme between the Nigerian Liquified and Natural Gas (NLNG)—a company in which NNPC holds majority shares—and the Amer-

5 Frynas, *Oil in Nigeria*, 35-36.
6 Global Witness, "Take the Future - Shell's Scandalous Deal for Nigeria's Oil," *Global Witness*, (2018): 5-11: https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/take-the-future/. Accessed January 30, 2021.
7 Libby George, "Nigeria Says Ex-President and his Oil Minister took Bribes: Court Filing," *Reuters*, accessed January 20, 2021, https://www.reuters.com/article/us-nigeria-oil/nigeria-says-ex-president-and-his-oil-minister-took-bribes-court-filing-idUSKCN1SG21U

ican company Kellogg Brown & Root LLC (KBR). In its investigation, the FBI concluded that between 1995 and 2004, KBR paid top executives in the Nigerian government and directors of both the NNPC and NLNG more than $180 million in bribes through shell companies owned by their Nigerian co-conspirators to obtain an engineering, procurement, and construction license to build liquified natural gas facilities on Bonny Island in the Niger Delta.[8] The value of the contract was worth $6 billion.

In 2012, KBR's former chief executive, Albert Stanley, was found guilty of numerous counts of bribery and "deeply hurtful practices" in the same case and was sentenced to thirty months in prison; a former KBR consultant got twenty-one months, and a few others were sentenced in the United States.[9] KBR was slapped with a hefty $400 million fine, which at the time was the second-largest the United States had ever issued under the Foreign Corrupt Practices Act. Shockingly, the Nigerians who participated in the scheme hardly faced any court sentencing. Such a deal was partly made possible by the flawed system that put control of resources in the hands of a corrupt class of ruling elites.

It came as no surprise to critics when, in 2016, an audit of NNPC revealed that the company failed to remit $16 billion in oil revenue from 2014 to the Central Bank of Nigeria (CBN). Perhaps similar figures could have been fraudulently stolen or mysteriously disappeared inside the NNPC every two years before the audit. No one can categorically tell. But how such enormous figures could be stolen with no public knowledge shows just how deeply broken the state management of the crude oil system is in Nigeria.

There are many powerful crony corporate—often foreign—interests at stake in the Nigerian crude oil sector that prevent proper accountability. Evidently, these crony corporate interests control greedy Nigerian leaders so that the crude oil sector is vulnerable to brazen exploitation. For example, when former CBN Governor Sanusi Lamido Sanusi protested that billions of dollars in oil revenue were missing from the bank, President Jonathan removed him from office.[10] What other reasons would the president have removed Sanusi and turned a blind eye to the alert? It was a case of protecting some high-stakes interests, interests so high that the president was willing to sacrifice his country's prosperity. Unfortunately, as the looting of Nigeria's oil wealth has increased since independence in 1960, much-needed social and physical infrastructures for the country's development have remained largely neglected.

As a result, Nigeria has been negatively ranked on nearly all major indexes of socioeconomic problems since the start of the twentieth century. In 2023, more Nigerians lived in extreme poverty than anywhere else globally. Unemployment has also steadily increased over the last decades. Other problems, including the increase in terrorism and banditry, are linked to poverty and unemployment. Perhaps the most significant positive shift in the Nigeria crude oil story since independence concerns the inauguration of the Dangote Refinery, a privately owned indigenous oil refinery company, in 2023. Its emergence—barring any meddling by the NNPC and the monopolization of the market by Dangote Refinery—stands to open up the sector to more competition and engender unprecedented productivity. But the double-headed devil of corruption and mismanagement still lurks in the shadows.

8 Russel Gold, "Halliburton Ex-Official Pleads Guilty in Bribe Case," *The Wall Street Journal*, accessed December 20, 2020, https://www.wsj.com/articles/SB122047391409696341.

9 Chris Baltimore, "Ex-KBR CEO gets 30 Months for Nigeria Scheme," Reuters, accessed December 11, 2020, https://www.reuters.com/article/world/africa/ex-kbr-ceo-gets-30-months-for-nigeria-scheme-idUSL2E8DNANU/.

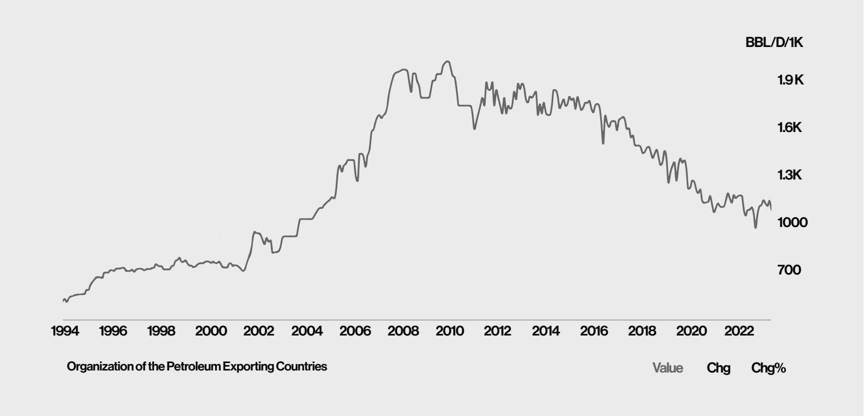
10 Adam Nossiter, "Governor of Nigeria's Central Bank Is Fired After Warning of Missing Oil Revenue," *The New York Times*, accessed December 20, 2019, https://www.nytimes.com/2014/02/21/world/africa/governor-of-nigerias-central-bank-is-fired-after-warning-of-missing-oil-revenue.html.

Angola and the Sonangol Problem

Angola owns about 9 billion barrels of proven oil resources and 11 trillion cubic feet of natural gas reserves. It is one of Africa's top three exporters of crude oil in the last decade. The oil sector is Angola's lifeblood, so much so that in 2024, 75 percent of the country's revenue derived from trade in crude oil. As is the case in Nigeria, the Angolan government's control of the trade in crude oil predates the advent of indigenous rule. The first commercial oil discovery in Angola was in 1955 while the country was under Portuguese colonization, and the Portuguese quickly monopolized the crude oil industry. It had earlier established the state oil company, Sociedade de Lubrificantes e Combustíveis (or Angol), in 1953 to coordinate exploitation activities, primarily for Portugal's benefit.

After independence in 1975, successive indigenous governments nationalized the oil industry in one way or the other. At first, there was the creation of the National Commission for Restructuring the Oil Industry. The commission established the Sociedade Nacional de Combustíveis de Angola (or Sonangol), the state oil company, in 1976. Sonangol has since acted on behalf of the government of Angola in the oil sector. The state is the chief administrator of Sonangol, which the state oversees through over a dozen subsidiaries. The Petroleum Activities Law, and the Law on Taxation of Petroleum Activities (PTL), both enacted in 2004, significantly strengthened Sonangol's powers. Although Sonangol could grant a license of operation to private oil companies, in practice, the PTL made Sonangol, the sole concessionaire of petroleum production activities. Through its Empresa Pública division, Sonangol equally held exclusive and non-transferable mining rights. It also ironically had substantial stakes in the companies to which it granted licenses. Unincorporated JVs were subjected to 65.75 percent income tax. At the same time, those entering into a production-sharing agreement with the government—often after reaching other secret-sharing agreements with state officials—were required to pay 50 percent income tax.

Figure 2: Angola's Oil Production between 1994 and 2023 per barrel in millions



Source: Trading Economics and the Organization of Petroleum Exporting Countries
https://tradingeconomics.com/angola/crude-oil-production

The 2010 Constitution strengthened the state's non-transparent custody of Angola's oil. Articles 3(3) and 16 reestablish the state's ownership of all gaseous resources, while article 165 (l) recognizes the state's absolute right to determine the granting of concessions for the use of natural resources and the transfer of state assets, chief of which is crude oil. All petroleum resources were nationalized by default until the government, through Sonangol, deemed it beneficial to license a bidder to share exploitation or production rights. Other forms of regulations have since further expanded Sonangol's monopoly. In 2012, for example, private oil companies were required to conduct payments to the government in *Kwanza*, the local currency, through local financial institutions, which was promoted, partly, as a move to limit embezzlement. Rather than prevent embezzlement, this largely fostered it. Over time, the scroll of regulations and monopoly only made Sonangol a means through which politicians conveniently siphoned off state resources for private gain.

According to Sonangol, the company derived a $3.1 billion net profit in 2023 and $5.3 billion in 2022.[11] Independent groups like Human Rights Watch and the International Monetary Fund believe the accurate figures are possibly in multiples of the reported figures. Sonangol's vulnerability to theft over the years did not make oil revenue significantly count towards the country's development, especially during the export boom between 2008 and 2010. Angola only recorded its highest oil revenue as a percentage of the GDP (56.14 percent) in 2008. Meanwhile, around the same period, the rate of Angola's 21 million population living below the $1.90 poverty line averaged 35 percent.

In 2004, Human Rights Watch claimed that more than $4 billion in oil revenue was unaccounted for by the government between 1997 and 2002. Other surveys suggest the amount stolen from Angola's oil returns could be up to $1 billion annually.[12] It is shocking that the amount of crude oil revenue stolen during the thirty-eight-year reign of President José Eduardo dos Santos has yet to be accurately calculated. The looting was allegedly extended to the rest of the dos Santos family, particularly his son, José Filomeno, and daughter, Isabela. Perhaps the most notorious case of mismanagement perpetrated by José Filomeno has to do with his appointment as chairman of the country's $5 billion sovereign wealth fund (Fundo Soberano de Angola [FSDEA]), in 2013. FSDEA's coffers were powered by crude oil revenue.

It came as no surprise to many when José Filomeno was detained in September 2018 on counts relating to the illegal diversion of half of the sovereign wealth fund.[13] He was later accused in 2019 of transferring $500 million from the fund to a Credit Suisse account in London. Isabela's net worth as of 2013 was estimated to be over $3 billion. This wealth, which earned her the status of Africa's first female billionaire in 2013, was, in many ways, tied to the country's oil resources.[14] Her appointment as chairwoman of Sonangol in 2016 by José Eduardo created further questions about her source of wealth, even though she had worked in the crude oil sector many years prior. She was dismissed in 2017 by her father's successor, President João Lourenço. Under the Lourenço government, the National Oil and Gas Agency's activities, which overtook some of Sonangol's responsibilities, considerably cleaned the oil sector. However, some damages are simply too serious for a short-term cleaning job.

11 "Sonangol's Net Profit Fell 41.5 Percent in 2023 To 3.1 Billion Dollars," VerAngola accessed March 10, 2024, https://www.verangola.net/va/en/022024/Energy/39001/Sonangol's-net-profit-fell-415-percent-in-2023-to-31-billion-dollars.htm

12 Marie Chêne, "Overview of Corruption and Anti-corruption in Angola," Transparency International, accessed February 20, 2021, https://www.transparency.org/files/content/corruptionqas/257_Corruption_and_anti_corruption_in_Angola.pdf, 3.

13 Anna Meisel, "Angola's Jose Filomeno dos Santos detained over 'fraud,'" British Broadcasting Corporation, accessed September 25, 2018, https://www.bbc.com/news/world-africa-45640818.

14 Kerry Dolan, "Daddy's Girl: How An African 'Princess' Banked $3 Billion in a Country Living on $2 a Day," *Forbes*, accessed 12 December 2020, https://www.forbes.com/sites/kerryadolan/2013/08/14/how-isabel-dos-santos-took-the-short-route-to-become-africas-richest-woman/#542dc5b645f5.

The absence of sufficient funds to invest in provisions that would facilitate prosperity in Angola amid the massive looting of crude oil revenue is tied to the country's ravaging poverty and unemployment realities. More than 41 percent of Angolans lived below the national poverty line in 2019, although the rate declined to 34 percent in 2023.[15] While the unemployment rate fluctuated between 9.43 percent and 6.77 percent from 2010 to 2020, it has increased to 14.62 percent in 2023.[16]

Thinking Forward

The positive experience of non-African countries where the state practically controls the oil sector—Bahrain, the United Arab Emirates, Qatar, etc.—shows that the problem is not always solely because of state control. The factors responsible for the underwhelming benefits of crude oil export earnings in Nigeria and Angola go beyond the centralization of crude oil management in NNPC and Sonangol. Certainly, cronyism, monopoly control, corruption, embezzlement, and unfavorable joint ventures with non-African oil companies are accompanying factors as well. In the end, it all rises and falls on leadership.

With the world rapidly moving beyond fossil fuels, annual export earnings from crude oil could continue to decline globally, and both Nigeria and Angola would not be immune to that reality. The decades of revenue mismanagement will catch up with Nigeria and Angola in no time. The future is even less promising because both countries depend primarily on crude oil earnings to fund their respective national budgets. As is common practice in other oil-rich countries, the state will remain the primary controller of crude oil activities in Nigeria and Angola, while private corporations retain a significant role. However, more investments from indigenous African corporations are desperately needed to make the sector competitive. If this is the expected status quo in the foreseeable future, the priority from a public policy standpoint should be pushing the concerned governments to implement radical reforms that would render state agencies like the NNPC and Sonangol, and the ministries under which they operate, more transparent.

The necessary radical reforms are twofold. First, more local Nigerian and Angolan investors should be encouraged to get involved. The existence of local competitors is one way to keep foreign corporations more responsible, curb cronyism, and de-monopolize the crude sector. Likewise, the communities from which crude is extracted should have a significant say in how the resources generated from their ancestral land are used and how to keep corporations environmentally responsible. For example, they could be given fixed seats on the boards of NNPC and Sonangol.

The second set of reforms relates to creating "truly" independent auditing bodies that would annually study the activities of private and state actors, like NNPC and Sonangol. Similar auditing agencies already exist, although they are usually under the authority of the executive and legislative branches of government. The problem started when the constitutions in both Nigeria and Angola vested the president with the power to hire and fire NNPC and Sonangol boards of directors, respectively. In both countries, who gets to lead the state's oil agency is not premised on expertise or experience. Past presidents have used such appointments to reward political loyalists. Board members are usually individuals whom the president and high-ranking members of parliament

15 "Poverty and Equity Brief: Angola 2020," World Bank, accessed January 15, 2021, https://databank.worldbank.org/data/download/poverty/33EF03BB-9722-4AE2-ABC7-AA2972D68AFE/Global_POVEQ_AGO.pdf.

16 "Angola: Unemployment rate from 2004 to 2023," Statista, accessed June 20, 2024, https://www.statista.com/statistics/808219/unemployment-rate-in-angola/#:~:text=The%20unemployment%20rate%20in%20Angola,remained%20at%20around%2014.62%20percent

can easily control to steal revenue from crude exports. It only makes sense that any auditing of the NNPC and Sonangol, which the president or parliament unilaterally or jointly initiates, would turn out to be a kangaroo exercise.

Hence, it is not unexpected that both NNPC and Sonangol continue to miraculously lose money annually amid several audits. Instead, auditing should be jointly initiated by local civil society organizations, trade unions, and bar associations. These three bodies should be constitutionally empowered to conduct such exercises annually. State agencies might be doing the same auditing successfully in other crude-exporting countries. In Africa, however, this option has failed. In Nigeria and Angola, the people should be in charge of monitoring.

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