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African Research and Resource Forum

Escaping the Rentier Trap: Mainstreaming Good Governance in East Africa's Emerging Petro-states

Main

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Acronyms

ACODE	Advocates Coalition for Development and Environment
AARF	African Research and Resource Forum
AfDB/ADB	African Development Bank
AFIEGO	African Institute for Energy Governance
APF	African petroleum Fund
APRM	African Peer Review Mechanism
AU	African Union
B/D(bpd)	Barrels per day (crude oil)
CGT	Capital Gains Tax
CNOOC	China National Offshore Corporation
CPA	Comprehensive Peace Agreement
COMESA	Common Market for Eastern and Southern Africa
CSCO	Civil Society Coalition on Oil
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
EAC	East African Community
ECO	Ecological Christian Organization
EMCA	Environmental Management Coordination Act
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GoSS	Government of South Sudan
HDI	Human Development Index
HLE	Health Life Expectancy
ICMM	International Council for Mining and Metals
IOCs	International Oil Company
IMF	International Monetary Fund
ISI	Import Substitution Industrialization
JV	Joint Venture
LNG	Liquefied Natural Gas
MDGs	Millennium Development Goals
MoE	Ministry of Energy (Kenya)
MEMD	Ministry of Energy & Mineral Development (Uganda)
MTDF	Multi-Donors Trust Fund
NEITI	Nigerian Extractive Industries Transparency Initiative
MNOC	Multinational Oil Companies
NEPAD	New Partnership for Africa's Development
NEMA	National Environment Management Authority
NGO	Non-governmental Organization
NOEC	Net Oil Exporting Country
NOC	National Oil Company
NOIC	Net Oil Importing Country

NOCK	National Oil Corporation of Kenya
NPC	National Petroleum Commission
ODA	Official Development Assistance
OML	Oil Mining License
OPEC	Organization of the Petroleum Exporting Countries
OPL	Oil Prospecting License
PD	Petroleum Directorate
PEPD	Petroleum Exploration and Production Department
PFCC	Parliamentary Forum on Climate Change
PSA	Production Sharing Agreement
PSC	Production Sharing Contract
PWYP	Publish What You Pay
RWI	Revenue Watch Institute
SEATINI	Southern and Eastern African Trade Information and Negotiations Institute
SOC	State Oil Company
SSA	Sub-Sahara Africa
TPDC	Tanzania Petroleum Development Corporation
Tcf	Trillion cubic feet
TI	Transparency International
UK	United Kingdom
WB	World Bank
WGI	Water Governance Institute

Abstract

The recent discoveries of oil (and gas) resources and the surge in exploration in potential petroliferous basins of East Africa will revive academic and policy debates discussing causal linkages between resource wealth and socio-econo-political development. It has certainly generated new discourses amongst the academia and the literati who specialize in oil sector governance research. More importantly, these developments have set the stage for intensive analysis of new interrelationships among interests, institutions, and identities within the oil corporate, policy, and citizen constituency.

This project seeks to investigate and elucidate on the structure of policy context for the region within resource curse narratives and its consequence for sector governance in the region. To provide a holistic analysis, it navigates through the prominent tenets of the rentier state thesis. This serves a heuristic purpose and acts as the locus of analytical and empirical evidence.

Traditional and contemporary curse polemics, which are generally subsumed in diverse nomenclature, attribute the existing structural and systemic socio-economic morass to high levels of resource endowment. But which factors or actors should we attribute the resource curse to? Findings are mixed. Yet, as a clear survey of these studies would tell, resource endowment is neither a necessary nor sufficient condition for socio-economic progress. The key aim of the project will be to describe and evaluate the scope of the region's opportunities and susceptibility to the myriad problems that plague many petro-states.

This is based on the understanding that the already ongoing (democratic) transitions have some space for determining the progressive but gradual process of achieving good governance. Thus an additional goal will be to examine how the region's policy architecture will define governance outcomes. This final Report is both a diagnosis and a prognosis of the major crosscutting issues defining petroleum policy sector.

Key Concepts

Resource Curse Thesis

The Resource Curse Thesis is a dominant body of thought in the field of resource economics and political economy which describes, analyzes, and explains the characteristics and origins of the well known systemic and structural socio-economic and political challenges arising from over-abundance of natural resources in richly-endowed states. As a framework, it also outlays how these problems are manifested starting from the premise that the ownership of immense natural resources is a disincentive for socio-economic and political development. Some analysts have presented the RCT as a paradox as they delve into problematique on why resource abundance does not necessarily translate into political and/ or economic stability, (see for example, Karl-Lynn 1997, Connelly 2010). The overarching argument is that richly endowed countries are entrapped in a curse which arises as a result of either lacking capacity to manage these resources or deliberately opting for less optimal strategies for managing resources.

Rentier State Thesis

Broadly defined, this is a state in which its regime draws or generates a significant amount or most of its wealth from external sources and whose revenue base is less reliant on domestic sector for wealth generation and creation. This income is external to the productive capacity of the state, (Bellin 1997). There are serious social, economic, and political implications associated with such a structure. By lacking attachment to the public system of wealth creation, the regime is disconnected from its populace (Magrin & Van Vliet 2009) and alienates state functionaries and institutions from the wider public. Such a system also shields executives from being accountable to their citizenry as their financial health is neither nurtured by nor sustained by key productive sectors of the country. A significant feature of a rentier state is the presence of a 'coercive apparatus', which is a robust system of management which relies heavily on the support and loyalty of enforcement agencies.

Mainstreaming Practices

Generally, mainstreaming encompasses the sum of policy activities and systems that perform the task of integrating new structures for institutionalizing and operationalizing new knowledge and new practices within a policy setting. It has become an integral part of policy implementation process over the years, as different stakeholders raised concerns about the scope and speed with which policy systems handled contentious issues such accountability, gender, participation, among others. There are two arenas of mainstreaming; vertical and horizontal. The former deals with operative inter-systemic linkages, while the latter deals with practices. The general aim is to target systemic changes, radically transform existing processes, or to introduce a sub-component that is missing in a policy field, instrument, or practice. Mainstreaming is actualized through the establishment of institutions, new codes and legislations, and an enabling policy system supporting the ethos of efficiency, effectiveness and empowerment.

Sections of the Project

Section one, two and three introduce the project and provide a descriptive summary of the major thematic, theoretical, and analytical issues. The status of region's oil reserve capacity (proven, probable, and potential), is described as starting point for providing justification for the project. Additionally, the rationale for the project, objectives of the project, scope of the project, problem statement, research question(s), and research design are outlined.

Section four presents an analysis of the dominant literature which discusses the linkage between resource governance systems and outcomes. The aim is to document and categorize the areas in which these approaches converge and diverge. This establishes ground for introducing the prerequisite/preconditions and path-dependency approaches.

Section five and six provide the guiding assumptions, present the research design of the study, and introduce the Capacity Analysis of Nascent Rentier Economies (CANRE) framework. it also describes key features of the CANRE approach. The section provides a justification for the model to the studies of new rentier states and its role as a model for encouraging evidence-based policy.

Section seven exclusively focuses data analysis and findings of the study. The section outlays the policy features of the sector in East African states. The Ugandan case is calibrated onto a comparative barometer and a theoretic-empirical one. The former compares its experiences to Norway while the latter applies the major models as analytical constructs that aid in explication and ascertaining evidence for sector strengths and weaknesses.

Section eight is titled "Towards action: Mainstreaming Good Governance in EA's nascent petro-sector" and the key aim is to present recommendations and a way forward for emerging oil and gas sector in the region. The basic claim in the section is that there is 'no short cut to good governance in the petro-sector.

Section nine is a conclusion and a set of project elements that can guide further research in the study of nascent oil economies. It encourages a shift in the polemics of the resource curse theses from severity of the crisis to capacity-context analysis.

Introduction and Summary:

In the most recent five years, virtually all East African states have recorded one or more significant and successful explorations and discoveries of oil and gas reserves[1] This, for sure, is a significant milestone and presents a promising element to the regional quest for solving a growing demand for energy. Such potential could help abate many socio-economic challenges that the region has confronted since independence. The ongoing exploration in petroliferous basins and the surge in prospectivity licenses confirm the new status of the region as a rich oil fringe of Southern Africa. It is also a sure signal to the fact that the region stands out to be a strategic market and a production node for upstream, midstream, and downstream activities of the sector value chain.[2]

It is important, none the less, to underscore that the whole operative gamut of exploring, exploiting, and extracting oil resources is always a work in progress requiring sustained and massive input of resources, investments, and patience.[3] The citizenry is expressing divergent reactions across the newly emerging public and policy spaces. It is displaying varied forms of rudimentary problematizing of the "barrel business." This varies from high expectations and excitement to different levels of anxiety.[4] Either way, at least the larger body politic is well aware of the promise and perils associated with resource endowment, but the mere discovery has energized many citizens who foresee how their lives will "change" for the better.

Admittedly, this new regional status has elicited both optimism and skepticism. It has created frenzy in as much it has evoked "fear" amongst citizens. None the less, there is some impressive keenness and cautious celebration. A large base recognizes that with oil wealth, it is not an all-rosy picture. The discovery of oil usually conjures up memories and perceptions of conflict, chaos, corruption, and a weakly structured supported by all-powerful and officious executive institutions of the state. This is precisely why governance issues have formed the thrust of the recent policy debates in the petroleum sector. It is precisely the subject matter of this project.

First and foremost*, **accountability*** is becoming a dominant theme in the current discussions about growth and governance. Operational, organizational, and institutional safeguards are prime concerns that must form the rubric for planning and implementing policies. This should specifically target revenue management structures. Because good

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[1] Kenya is the latest member of the "club", with the recent discovery in Turkana after years of exploration. This project awaits commercialization, after which the country is set to be another regional producer of oil.

[2] This heightened status is also linked to the fact that projected statistics on reserve potential within the region are indicative of the existence of active systems of additional oil and gas reserves.

[3] Evidently, a recent study Seljom & Rosenberg (2011) succinctly mentions that "...long-term development of energy systems is characterized by a high degree of uncertainty" .For a lengthy discussion, see their article, "A study of oil and natural gas resources and production, International *Journal of Energy Sector Management*, 5(1):101-124).

[4] See for example, Bategeka et al (2009), "Oil discovery in Uganda: Managing expectations"

governance and economic development are interlinked, related efforts to promote them must move in tandem.[5] Such issues are not necessarily germane to institutional systems in the region because all East African states have been undergoing structural adjustment reforms since the heydays of austerity. While it is tempting to add that the slow but ongoing democratic transitions will anchor structures used in mainstreaming good governance, it is premature to conclude that is will serve the region very well. There is still much work to be done.

Most experts have underscored the need for full and due commitment to a prudently sustained long-term planning and a sound macro-economic regime (World Bank 1992, Anderson & Browne 2011, Global Witness 2012, Heigle 2012).[6] The higher propensity of failure among resource-rich states is explained by their ***dependency*** on oil resources and concomitant ills which are associated with profligacy, abysmal performance in growth, and a poor record of investment discipline, (Ross 1999). Thus another greater concern for East Africa should be to enhance efforts towards streamlining institutions and effective organizational apparatus in the oil industry. This will define a broad investment regime where vast revenues are well managed and attractive incentives lure investments from a larger and a more diversified corporate system.

Enter ***democracy.*** The discovery of natural resources encourages regimes to close existing participatory spaces.[7] This is because windfall revenues provide the state with immense resources at its disposal with which it can control and alienate the public (Karl-Lynn 1997, Ross 1999, Sachs & Warner 2001, Auty 2010). The state can also nurture new participatory avenues, using overt or covert forms of control, to front for its different agendas, interests, and stakeholders as will be seen in subsequent sections. Ideally, the state's regime apparatus should define the scope and size of participants in resource and revenue management. When the regime opts to bend rules of accountability and exclude a vast majority of its population, there is normally a high probability that instability and strife will ensue in these states (Alao 2007, Luciano 2011).

Good governance alone cannot guarantee successful conduct of policy process. Another compounding factor is the fact that resource endowment confers additional short-term and long-term tasks and responsibilities for oil rich states. This defines whether the state has the relevant ***capacity*** for managing upstream, midstream and downstream sections of the petroleum value chain. Capacity herein includes legislative, administrative, regulative, and technical prowess and whether these features are inter-linked in a holistic manner. It is important to assess whether respective East African governments are well prepared to competitively negotiate with the powerful MNOCs when signing petroleum agreements and awarding exploration and production contracts.

Effective governance mechanisms are guaranteed when the governments embrace different stakeholders (corporate or community) with caution and candor. A tripartite governance alliance (encompassing the state, corporate and civil society entities) should form the basis of sector interactions and at constituent arenas of sector operations. Such a process dampens suspicions, mobilizes collective effort, and addresses the various resource gaps which affect initial sector operations. Additionally, each stakeholder base is a repository of different elements of capacity. This includes;

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[5] The maxim that most resource-rich states have a high propensity towards failure due to poor governance, overconsumption, and underinvestment are well founded as evidence from global experience provide extensive pool of cases of resource-rich dismal performers.

[6] This view is gathering tremendous impetus as many experts and stakeholders acknowledge that governance must be anchored on transparent, accountable, open, and efficient institutional systems.

[7] The emerging and unfolding oil and gas "policy space" is currently very dynamic and encompassing a concrete coterie of stakeholders from the entire oil constituency. Definitively, these stakeholders have different resources and capacity. The level and scope of stakeholder participation is the key concern.

informational, institutional, technological, material, and cultural resources. These are requisite factors needed to complete and inform agendas and issues relevant for different policy instrument in the oil sector.

The reverse is also true. Corporate and civil society forces are known to influence state ***autonomy*** in various ways. The reality is that serious material and technological match-up differences exist. This is manifested for example, with regards to 'asymmetric information' (Action Aid 2011, 2), where corporate entities come into negotiation table with prowess and power. This is derived from substantial financial and technical capacity which the host states can hardly match. Secondly, corporate influence on state autonomy is manifested in instances where the former wields an advantage in oil dealings due to the immense clout that they command in the global arena. Societal influence on state autonomy is mainly manifested in the networks of patronage and vis a vis rentier economy, where the state is held "hostage"- by design or default - to the interests of the social base which oversees or threatens its power.

The region is currently undergoing a phase in which various stakeholders are asking questions, seeking answers, framing and re-framing debates, fact-checking, planning, and interrogating policy system of the region's petroleum sector. The need for the region to escape the traps of poor governance, greed and grievance that plague oil-rich states has never been such an urgent concern. Can and will East Africa take a different route different from the commonly castigated and cursed route? Can the region evade the rentier trap? Simply stated, are there specific policy tools which can guide these initial efforts and subsequent phases of policy planning and development? These issues form the thrust of this project.

The project seeks to elucidate the prosaic elements of policy planning, learning and implementation by assessing how East African countries are developing and mainstreaming tools and instruments for capacity building. An attempt will be made to evaluate how the region is learning (with specific illustrations) from experiences of successful and failed cases. Is it being enriched by these experiences? This project identifies and analyses the overall mosaic of interests, formal and informal institutions and significant processes that underpin agenda setting, planning, and implementation of key programs. It is an analysis of the ongoing sector mainstreaming processes and practices, and the directions that significant players are taking to plan and implement sector principles and practices that guide resource and revenue management. The project introduces a new approach to analyzing petroleum policy.

The study uses an analytical frame that is centered on both agency-centered and structural approaches. It situates the relevance of the Capacity Analysis of Nascent Rentier Economies (CANRE) but within the resource curse research program. Findings are based on data gathered from interviews, desk analysis in public libraries (in Kenya, Tanzania, Uganda, and the United States), observation, expert and key informant interviews, and a short field research in Kenya, Uganda, and Tanzania. The research study also delves into the content of various national and global debates, panel meetings, and forums that animate dominant discourses about oil in the region. The aim is to analyze the dynamics at play in the current phase institution building. Information and data was gathered on framing, planning, and designing principles of constituent petroleum policy instruments and tools.

History and Colonial Legacy of East Africa

The East African region compromises of countries that are predominantly former British, German and Belgian colonial territories which became protectorates after the 1884/5 Berlin Conference and the 1886 Anglo-German Agreements. This colonial experience is central to understanding the legacies of weak governance that beset the region. This legacy is intertwined with precursor colonial institutions which were utilised in the administration, occupation, and exploitation of the region's vast natural and mineral resources.

A closer inspection of the region's current oil and gas sectors can be understood from the vantage of this history which has equally defined the economic and development trajectories and outcomes of these countries. The overall management of resources such as minerals, which are known to provide high rents, were pegged on control and exploitative models in which the state commanded unfettered powers and influence. Today, similar command mentality serves as the genesis of weak legal and institutional policy systems that inform the extractive sector in developing countries. Some commentators have argued that the post-colonial African state is a "political construction and a successor state" to the colonial state. (The African Heritage Society, 2011).

First, there is no doubt that this history influenced the post-independent developmental *ideologies* with regards to which policy agendas, objectives, and instruments different states favour and follow. A common effect of this legacy is associated with state monopoly in revenue and resource management through nationalization of key country assets.

Secondly, this history had a lasting impact on post-colonial *economies* in as far as it led to the growth of geographical and structural 'disarticulation' (Ake 1980, cited in Ndege 2009). The former implies a weak governance mechanism limiting production values chains of major sectors and leading activities in urban areas to the exclusion of rural area. The second, by implication, refers to the characteristically poorly diversified economies. This means investments were skewed towards some areas and some sectors.

Third, the post-colonial model of management was supported by an ever increasing and burgeoning of state institutions. The same institutions were overly bureaucratic and encourage the scaling up of *operations* without adequate capacity. The impact is that there emerged a disturbing 'dialectic' revolving around dwindling performance and inefficiency of state-administered facilities and underutilization of capacity in the very institutions.

Concomitantly, an associated legacy that emerged in the post-colonial state is that by extension and continuation, the state became a predator rather than a protector of the national resources and revenues. This occurred through its linkages with clientelistic *networks* with the wider connected elite and links with social forces. The experience in oil-rich economies in many cases led to the creation of "a state within a state" (Noreng 1980).

With less autonomy and capacity, the state failed in weeding out the vestiges of coercion and instruments of control that were used by its predecessors. Thus, it was more inclined to be an 'alien' state and thus corrupt. This was an impetus and an excuse to gain full command and control of major revenue producing sectors in these countries.

Finally, this legacy bred institutions that have acted as enablers for the current neo-colonial ties that bind the region to its former colonial powers. The latter has vast interests and engages in numerous economic activities through its multinational companies. This has led to continued "domination" of the region's economies. The former is in need of technological, financial assistance and can only depend on external support of the latter.

Economy and Markets: An Inventory

One of the most recent developments in the history of East African region is the record economic growth that has taken shape in the past decade. The pace of East Africa's growth recently surpassed that of West Africa. Precisely, in 2010, the former record an impressive growth of 6.7 and the latter 6.2% (African Development Bank, Africa *in 50 Years Time"*). Another positive economic sign is the fact that Foreign Direct Investment (FDI) inflow to the region has also doubled in the past decade (Mungai 2012).

The growing and dynamic market economy has also expanded and diversified the private sector and it is thus hoped that in the context of growth and through diffusion effects, such positive indicators could be integrated with the oil and gas sectors so that the over regional economies can have substantial growth needed to lift it out of poverty. The potential market encompasses a population of about 130 million East Africans.

There is some level of optimism because of the fact that the region's previous status as a weaker and high risk market for the extractive sector and for downstream markets has been rebranded.[8]This is in line with the recent developments that are re-invigorating and revamping these downstream petro-markets. With the recent discoveries, there is renewed focus on the East Africa Rift system.

The region's market is growing and so is the level of access to these markets. These two developments have been catalyzed by the progressive deepening and widening of regional integration in East Africa. The Customs Union is has been in operation for the last 7 years while the Common Market is in its 2nd year. There are negotiations among the Partners States focusing on the creation of harmonized monetary and fiscal policy.

The establishment of Monetary Union is scheduled for December 12, 2012, though the extensive negotiations may delay the implementation and push it to next year. The establishment of the EAC Customs Union in 2005 also served to facilitate the growth of inter-state trade.[9] Additionally, this trend is projected to assume a reasonable pace because major economic growth drivers in the region are showing positive indicators. Currently, estimates points to: a 26% proportion of Africa's population, 16% of combined GDP of Africa, and 22% of Africa's landmass.[10]

Geology and Ecology of East Africa

The East African Rift System is the geological feature that anchors the region's reservoir-rich basin with vast potential and recoverable accumulations of oil and gas. It is a highly prospective basin yet large and complex.[11] Geological and seismic data indicate that this system, which is also the largest rift system in the world, harbors reservoir quality sediments which indicate that there is a potential and an active hydrocarbon system. Virtually most of the countries in the EAC are part of this complex geological rift system as Kenya, Uganda, Rwanda, Tanzania and Sudan are all geographically positioned within this system. Map 1 shows the geographic elements of the EAC rift system.

Evidently, the recent surge in prospecting activities has increased probabilities that more resources are yet to be discovered in the region. The region has 28 prospective sedimentary basins with over 37 oil and gas companies.[12] Additionally, discovered petroleum reserves (not including Sudan) are estimated at over 2billion barrels while natural gas reserve estimates stand at about 4Tcf.

The region's attractiveness stems from the recent findings of active petroliferous and gas systems in Uganda, Kenya, Rwanda, Tanzania, and South Sudan's ongoing production program. For example: the most recent was the discovery of an active substantial system with rich gas reserves in Kenya's Malindi region in the L8 License area, oil reserves in Turkana region's Ngamia block, methane gas in lake Kivu Rwanda, gas reserves in Tanzania, and oil in

[8] Wachira, G. 2010. "Big oil in full retreat from downstream African retail markets"

[9] For example, ADB statistics show that the total intra-EAC trade in 2006 stood at US1167.1 million. By 2010, this number has risen to USD 3800. See the African Development Bank's, 2010 publication "*Eastern Africa Integration Strategy Paper 2011-2015*, p. 3)

[10] Ibid

[11] Beddis, D. et al. 2011. Untapped Oil Frontier: Hunting Elephants in East Africa, p.1.

[12] Ibid

Uganda. The Government of South Sudan (GoSS) is already actively producing oil and has vast reserves in the Adar, Yale, Palogue, Heglig, and Unity.

Map1: The East African Continental Rift System

Source: Geology.com

The surge in exploration and production of petro-products in oil and gas sectors have provided solid indications that the East African Rift system is well endowed with enormous hydrocarbon resources[13] and there is a probability that this potential could rival that of the Middle East.[14] Indeed, this is true for Africa at large – where the continent's share of global oil production is set to grow at the fastest rates compared to any other region.[15]

Recent studies also suggest that despite this outstanding richness, the region is still underexplored, overlooked, and especially so for the onshore systems where it is believed a large acreage hold vast potential for oil and gas. The

[13] Collier, P. 2007. "Commodity prices, growth, and the natural resource: Reconciling a conundrum; Clarke, D. 2011. "Developments in Africa's oil and gas industry".

[14] Global Research, 2010. "East Africa is the next hot oil zone". In Global Research E-letter.

[15] Frynas and Paulo 2007, New scramble for Africa? Historical, political, and business perspectives, p.241

other major constraint besides the complex geology is political uncertainty and weak legal and institutional regime structures.

The third feature of the EA system is its linkage to the ecological systems that surround it. Most oil and gas (offshore and inshore) basins are either located within or border ecologically sensitive environmental habitats which are home to diverse groups of flora and fauna. As governments keep delineating more acreage for extraction and production, environmentalist worry that there will be extreme interference in these resource-abundant regions which act as special natural reserves for biodiversity.

Oil extraction and production in the region stands to have long term environmental impacts if not well addressed by the existing legislative and regulative frameworks and those currently under construction. Environmental sensitivity will be critical in the design of regimes for both inshore and offshore exploration and in the entire value chain.

Activity Profile: Exploration in the East African Rift Basin

The timeline of exploration activities of potential and prospective petroliferous basins in the region ranges from nine to six decades ago with intermittent programs across each country. Accordingly, oil exploration in Uganda began as early as the 1920s, in Kenya in the 50s, and in Tanzania in the 1950s. The general trend of activity was initially concentrated in offshore exploration programs. These were mainly done in the coastal basins such as Lamu (Kenya), the islands of Zanzibar, Mafia and Pemba, and only a few inshore exploration activities.

1960-85 period saw an unprecedented increase aggressive exploration in the region. This was driven by both local and global factors. Between 1980 and 2006 there was a surge in government involvement and partnerships with different international oil companies in the sector. Interactions centered on providing financial and technical assistance, capacity building, exploration promotion, and facilitation of prospecting activities. In the past 30 years, the government has continually invested in efforts aimed at shifting from exploitation to production.

Policy development in the oil sector equally strived to embrace three major principles to ensure sustained sector and overall economic development. This was modeled on a framework promoting sustainable resource extraction, enterprise development, and overall equitable sharing of benefit s of the nation's national resources. Figure 1 is a diagrammatic schema of the principles of the region's model for sector development. Overall, part of this model has paid well. For example, oil and gas exploration in Uganda has enabled successful drilling rates of 90% with 58 of 64 drilled and encountering oil and gas.[16]

In the same era, many states in the region began preparing and adopting petroleum exploration and production legislations and statutes. The surging oil prices coupled with dwindling supplies also serve as catalysts for increased activity and increased participation of new entrants into the oil and gas markets in the region. Until 2003, none of the EAC states (with the exception of GoSS), had known oil reserves. Where oil shows were sighted, various blocks were then licensed for exploration and earmarked as potential or prospective systems.

Thus by late early 2000, increased prospecting and exploration activities formed the basis for claims that regional potential for petro-fossils was high in both coastal and inland basins. Secondly, potential for large gas discoveries in the region and additional exploratory data also estimated that the total potential gas reserves in East Africa could amount to at least 100tcf (All Afica.com 2011). With the discovery of various hubs of petroliferous basins, the region

[16] PEPD 2011. Developments in Uganda's Oil and Gas Sector, http://www.petroleum.go.ug/page.php?k=curnews&id=12

has recently earned the title of an "exploration hotspot."[17] Seemingly, Africa as a whole is now described as the "last oil frontier" and an emerging "oil and gas superpower."[18]

Kenya has one of the longest histories of oil and gas exploration activities in the East African region[19] Oil exploration in Kenya began the 1950s. When the Petroleum (Exploration and Production) Act was revised in 1986, the sector attracted attention of new companies interested in exploiting activities in the sector. These revisions also saw a shift in fiscal regime which saw Royalties being replaced by Production Sharing Contracts (PSCs). The main intension of this revision was to provide suitable investment incentives and regime flexibility in order to attract foreign investors.

Kenya's major areas of exploration have been demarcated into 4 inshore and offshore 4 blocks, which include Anza, Lamu, Mandera, and Tertiary Rift systems. The total acreage of Kenya's sedimentary basin is approximately 400,000km². Currently, the number of exploration companies operating in Kenya is 12 with 22 of the existing 36 blocks licensed to these operators.[20] Gas exploration activities have also increased and one of the notable indicators is the recent successful discovery of gas deposits east of Malindi. Map 2 shows the various active and prospective petroleum basin blocks in Kenya.

Until recently, Tanzania had no active history of oil exploration though gas exploration has been vigorously pursued. Offshore oil and gas exploration only started in 2004. The commonly known reserve areas are located at Tundaua on the west coast of Pemba Island, at Winyayongo, and at Msimbati near Mnazi Bay and in the Interior Rift Basins. None the less, oil seeps have been located in Lake Tanganyika. Additional geological studies have shown that the Songo Songo area has visible signs of oil presence. The main wells are located at Pemba-5, Mandawa-7, Mafia-1, and Mita Gama-1. Geological findings estimate that the country possesses recoverable gas reserves of about 28.9 trillion cubic feet.

Exploration of Uganda's oil reserves began way during the pre-colonial times, as early as the 1920s and records indicate that there was documented evidence of hydrocarbon amounts by a geologist named E. J Wayland. In a 1925 publication titled "Petroleum in Uganda", Wayland presented his findings which indicated the existence of 52 oil and seeps, (PEPD 2011). These exploratory activities were carried in the Albertine Graben which is located within the Rift Valley system. The first drilling took place in 1938 and some activities commenced but took a halt sooner than anticipated.

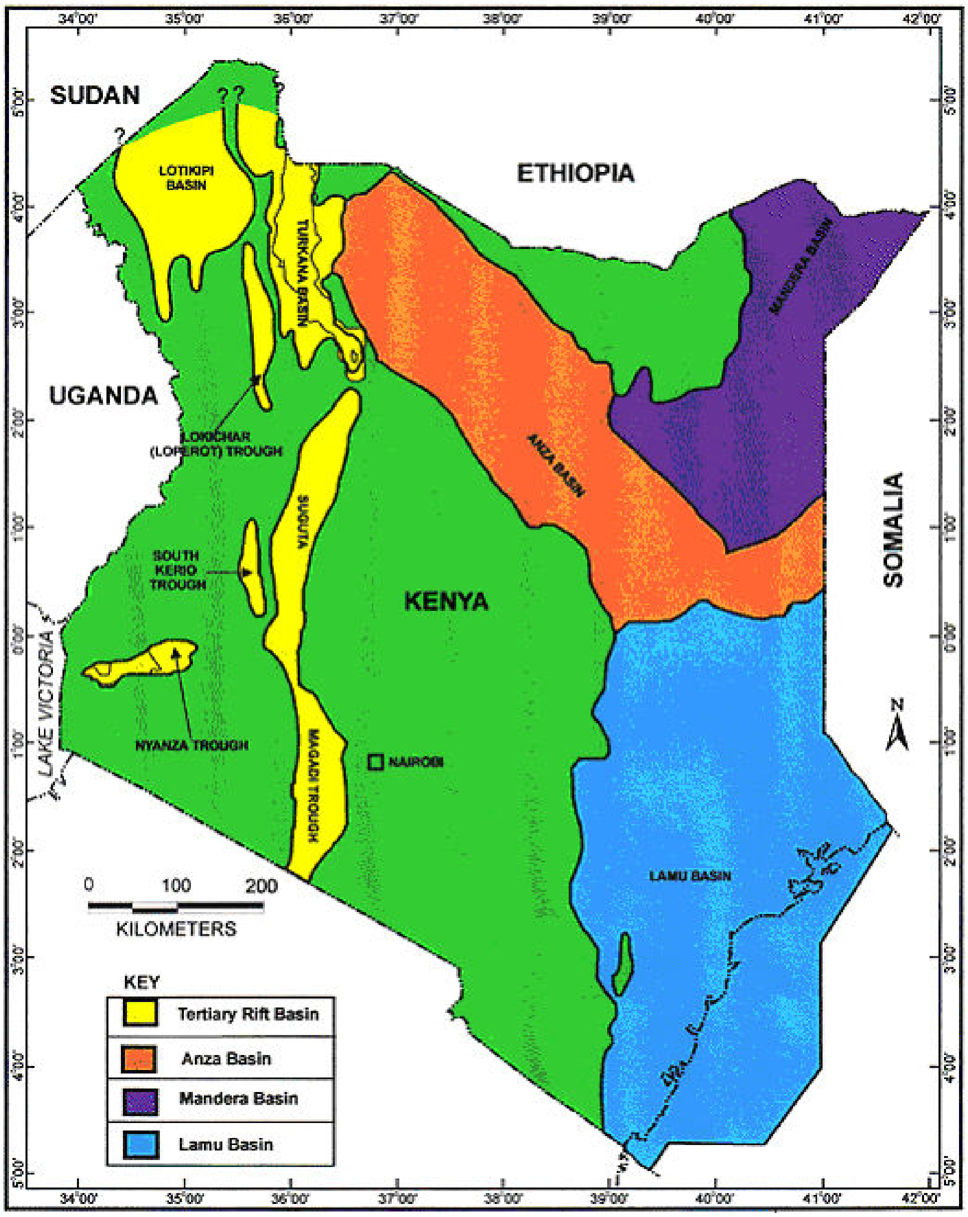
Come 1980s, efforts intensified and several ground surveys were conducted which led to identification of a prospective basin and an active system in the Albertine Grabben in Western Uganda, in Masindi, Kibale, and Hoima. This development was an impetus for renewed focus on intensive exploration of potential systems which had been halted since the 40s. The Petroleum (Exploration and Production) Act was enacted in 1985 (and revised in 2000) while the Petroleum Regulations came to force in 1993. Uganda can now boost being a host of quality reservoir sand. Twenty oil and gas discoveries have been made and with an estimated volume of 2.5 billion barrels – of which 1 billion is considered as recoverable. 2006 marked the historic year in which commercial oil was discovered in Uganda. The country has six sedimentary basins which are all located in the Albertine system. Map 3 shows the various active and prospective petroleum basin blocks in Uganda.

[17] ADB 2009, 8; see also Aron 2011
[18] Nwawudu 2011, 47
[19] Beddis at al, 2011
[20] Lyne, N. "The Petroleum Resources of East Africa"

Rwanda and Burundi have not undertaken any intensive exploration activities and both lack strong upstream sectors for oil and gas. Rwanda is working aggressively to modernize its gas sector by building facilities to anchor its power sector. With the recent signing of PSCs, it has intensified efforts to allow investors to start exploration. Rwanda's potential system is part of the western branch of the East African Rift system. The major section located in the Lake Kivu area. The lake contains an estimated 250 billion m^3 of carbon dioxide and 55 billion m^3 of methane gas.[21]Burundi, a landlocked country, has had some history of activity but in a smaller and intermittent fashion. Initial exploration programs were done in the late 50s in the Rusizi basin and in Lake Tanganyika. The quality and quantity of oil reserves are in both countries are yet to be known though Rwanda has demarcated 4 blocks of acreage for intensive future onshore and offshore exploration activity.

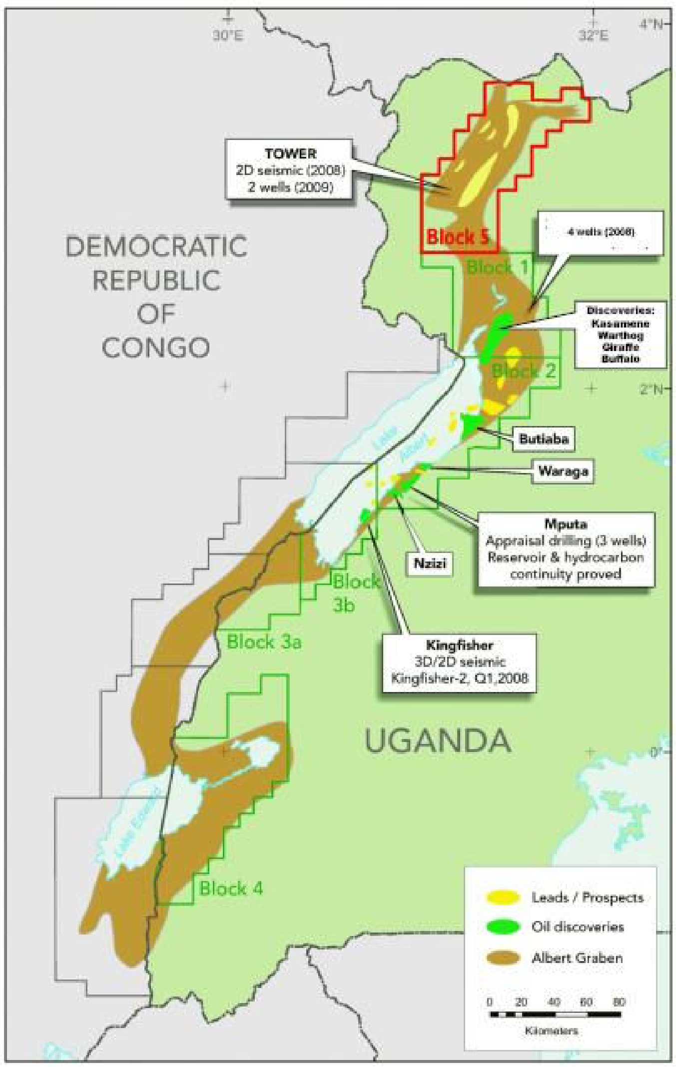
[21] Ibid

Map 2: Kenyan Sedimentary Basin Map



Source: National Oil Corporation of Kenya (NOCK)

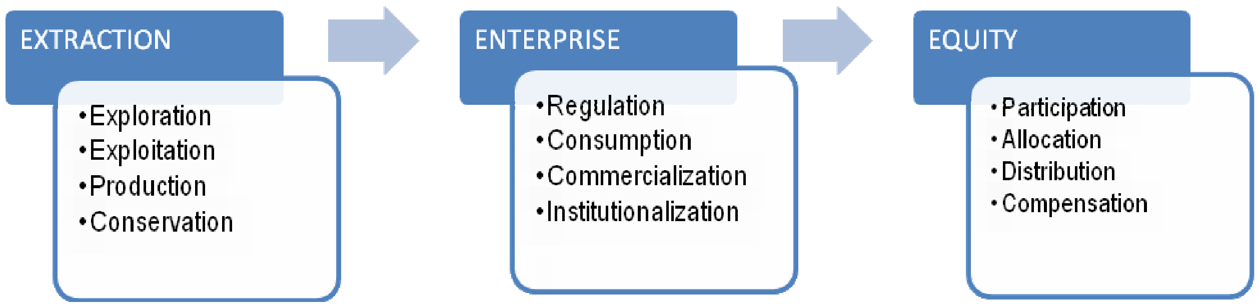
Map 3: The Albertine Grabben, Uganda



Source: Energy-pedia news

South Sudan, which is the youngest state in the region, is the only country in the region which has let most of its land acreage for oil exploration. Exploration activities had been terminated on and off in the past one year but just recently resumed. The country is embroiled in dispute with Sudan over transit fees for the upstream sector transactions. This has also affected transport ad production programs in South Sudan. Until September 2012, Total SA possessed the largest exploration block in terms of acreage in the country. These rights were revised in September 2012 as the South Sudan government sought to reform its licensing regimes and streamline it towards higher productivity.[22]

Figure 1: Regional Principles for Oil and Gas Sector Development



(Developed by the Author)

Activity Profiles: Production in the East African Upstream Sector

With the exception of South Sudan, none of the East African countries have achieved the status of oil producing nations. Uganda is set to begin producing oil in 2017 –though this target seems to be marred by controversies surrounding the conflict between Kampala and International Oil Companies (IOCs) over modalities of executing the Capital Gains Tax (CGT). There is a plan to start small scale production in Kabale and Hoima regions. With Kenya's recent discovery in Turkana, the country projects production to start in 2018. Oil production in the former Sudan began in the 1990s after which production surged tremendously with the entry of major new independents in the sector, notably from China, Malaysia and India. Previously, the Sudan both held 0.6% of world production (Shankleman 2011).

The management of South Sudan's production infrastructure for oil sector is a herculean task for the government as it seeks to initiate and create laws to govern oil production. Much of the challenge is that it cannot ignore provisions from the 2005 Comprehensive Peace Agreements to which it is a signatory and which defines much of its broader foreign policy links with Northern Sudan.[23]

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[22] Experts opined that it was the intention of the new GoSS to disentangle itself from previously committed deals that were singed under the previous Government of Nation Unity - when the south was part of the north. The second claim is that Total has not lived up to its promise of expediting exploration programs if it is taken into consideration that it received exploration rights about 3 decades ago. (See Bariyo's article, "South Sudan shakes up oil sector, Wall Street Journal, September 14, see also Shankleman 2011).

[23] For a more detailed discussion, see Jill Shankleman's 2011 publication titled, "Oil and State building in South Sudan: New Country, Old resources.

Oil production is not one of the strong elements of the sector since only fewer discoveries have been made and also because the commercial viability of the discovered deposits are also yet to be known in areas where they have been found. Some of the most commonly identified barriers to achieving targeted production status are:

- Few exploration activities and slow pace in achieving exploration targets
- Complex geology which is hindering prospecting and intensive basin exploration
- Delays in setting fixed production timelines and timetables
- Lack of a set schedule for commercial production
- Conflict over contract contents between host governments and IOCs
- Lengthy parliamentary debates and disputes over what tools and which stakeholders to engage
- Lack of capacity for production - information, human, capital, and technical resources
- Oil Production is a capital intensive program and therefore requires strong incentives from governments to attract investors who can participate in the market
- The region's status as a high-risk prone frontier discourages or has led many IOCs to be overly cautious about undertaking grand investments.

Rationale for the Project

This project starts from an understanding that there is need for analysis and understanding of the structure of the systems that plan and implement programs and policies in the region's nascent oil sector. Accordingly, the associated systemic challenges that limit the quest for effective mainstreaming in the sector can be identified and addressed.

Additionally, there is increasing recognition and need for how best to craft and design institutions with capacity, legitimacy, and participatory structures. This will help in identifying, investigating, and determining the broader and critical governance variables. With a growing demand for effective, enterprising, and institutions oriented on equity, the need for probing and interrogating the status and scope of good governance that is taking shape in such a critical sector is timely and relevant.

Objectives of the Project

The core objective of the project is to monitor and review the existing policy structures, systems, and actors in East Africa's (see Fig.1),emerging petro-sector with a view to locating areas of strength and weaknesses in governance (see Fig. 2) and providing benchmarks and principles for effective sector mainstreaming. It is well known that most richly-endowed petro-states are beset with systemic and structural weaknesses associated with plunder, pillage, praetorianism, and predatory institutional systems, to name a few. While the project avoids the conclusion that East Africa's new oil frontier encompasses a case of emerging "rentier" or "cursed states" - in the making – it seeks to situate the experiences and developments in the sector by cautiously but carefully avoiding mainstream fatalistic approaches to analyzing oil sector dynamics. This process will encompass situating and placing the region's experience within a broader contextual, comparative, and analytical framework while in an effort to:

♦ *To interrogate* the cross-cutting policy systems, issues and meta-frames that define the current management of the oil sector

♦ *To model* a framework for explaining oil sector governance outcomes in the region which builds on existing research paradigms and on extractive sector management dynamics

♦ *To propose* ways in which the region can make good governance a prominent framework in the crafting of sector institutions.

Scope of the Project

The project as currently designed will be limited to analysis of the oil sector policy system and dynamics rather than broader macro-economic issues on which the sector is anchored.[24] It none the less delves into the critical policy connections. Second, it specifically concentrates on the East Africa region. For a comprehensive analysis, the project uses a comparative framework which asses the applicability and relevance of successful experiences from Norway, Brazil, and Malaysia. Finally, the project dwells on governance issues of upstream sector operations as a core element though specific domains of downstream operations may be analyzed.

Statement of the Problem

Many if not most resource and oil-rich states have performed dismally on socio-economic progress, but with well noted exceptions such as Norway, Canada, Brazil, Russia, and Malaysia (Sachs and Warner 1999, Ross 2001). The OPEC coalition and other oil-rich conglomerates are populated by authoritarian regimes which despite enormous wealth continue to deteriorate on the socio-economic front. Thus, it is common evidence that windfall revenues emanating from the petro-sector maligns socio-economic development and impedes the over institutional development of a resource-rich state.

The regime's management and policy programs are normally articulated and implemented by shortsighted oligarchic and parochial elements of the of the oil constituency. Institutions remain by and large, decayed, illegitimate, and remote from its citizenry. The polity stays polarized with factions divided along the different enclaves borne out of the clamor for proceeds and rents from the sector. Conflict, competition, and chaos are ordinary everyday experiences in these regions. *This is the trap and tragedy of oil wealth.*

But herein, emerges a nascent and rising regional source of oil - East Africa - which is currently experiencing an oil "boom moment". The region (and its neighbors) harbors two of the five most resource-endowed countries in Africa in terms of richness and diversity, the Sudan and Congo (SID 2009: 1). The first critical challenge is that despite the fact the region is yet to embark on an intensive extractive and production program in the hydro-carbon sector, a key concern is whether there will be a shift from dependence on donors to dependence on oil**, (** see for example Bategeka et al**).** Thus, how can the region escape the entrapment of the curse, much associated with oil or natural resource dependence? What is the strategy for managing the large discoveries of oil wealth, and with possibilities that more wealth is yet to be discovered?

The 21st century has been dubbed the "hydro-carbon century" (ADB 2009) where many nations are aggressively seeking new markets to fill in their energy demands. Africa's rise is timely as it has emerged as one of the recent hotspots for oil exploration, production, and expropriation. The 'baggage' of managing the oil sector responsibilities remains a critical issue. Should we be enthusiastic and hold our expectations high or be a little bit cautious about these expectations?

East Africa's experience can be understood by investigating how the governance spaces in the sector are being nurtured, maintained (and at times) subverted. As already noted, there are successful exemplars of good governance in the hydrocarbon sector from which the region can borrow. The problematique, herein, lies in ascertaining whether oil sector policy instruments (alongside other macro-economic programs) will be anchored on principles of "subsistence" and/or "sustenance".

[24] This has been a prominent preoccupation of both classical and contemporary studies of the sector.

Finally, there are evident short term and long term implications for regional security, stability, and prosperity. The predominance of the stagnation model is instructive but how can regional policy entrepreneurs and champions chart a course that boosts the chance of rescuing' its nascent but (seemingly) buoyant extractive sector? Who is to steer this process and who is to sustain it?

Thus it is a critical area of analysis considering the fact that the region is still undergoing progressive democratic transition. In anticipation, it is hoped that some open participatory arenas will allow mobilized citizenry to partake of the developments emanating from enterprising programs within the oil's extractive sub-sector. If it does empower them, they should be less prone to destabilize the regimes, and will let the slow process of sector growth take its shape and form. Still, in this idealized process, could it mean that the empowered citizens will demand for and/or be part of those committed to building stronger institutions needed for escaping the trap?

Research Questions

In an effort to ponder over governance dynamics in both veteran and nascent oil-rich regimes within and without the region, the project proposes the following research questions:

♦ What policy principles, objectives, and instruments are guiding current governance practices in East Africa's emerging petro-sector?

♦ What is the scale of operationalization of policy process and what is the scope and strength of the state's capacity in (steering, supporting, and sustaining) this process?

♦ How can the region best articulate a vision which mitigates the well known impediments associated in the resource-curse?

Literature Review

History and Theory in Petro-politics

There is a wealth of publication addressing diverse themes on resource endowment and its linkages to socio-economic growth, investment policies, and governance. This literature is undeniably pessimistic about the causal links and outcomes of this linkage. The debate on the linkages between resource endowment, governance, and growth is not new. As early as 1950s and 60s, several studies were already devoted to the analysis and explication of this linkage, analyzing the direction, pattern, and long-term trends. Much of this evidence was linked to global economic and political forces which were shaping and reshaping global trading patterns at the time.

Initially, these polemics were conceptualized in relation to import-export value gains and losses to developing countries whose major source of foreign exchange was from primary and/or raw commodities. The general focus of these narratives was predominantly couched on discussions on the terms of trade effects and types of commodity markets. The idea that the export industry (of primary products) could serve as a vehicle for economic development was fronted by some development economists. They argued that there indeed exists a positive linkage between resources and growth and this is because the accrued revenues could nurture the nascent economies of developing economies by helping to address capital shortfalls.[25]

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[25] See for example, Inis 1956 and Lewis 1955, cited in Ross 1999

An alternative view challenging this position came from the extremely influential works, mostly from structuralists and the depencia movement. This strand of research was more preoccupied with examining how developing countries' commodities were vulnerable to price fluctuations, unfavorable and uncertain global commodity prices, and chronic imbalance in the terms of trade. This was particularly true for raw commodities. Secondly, they argued that enclaves borne out of resource exploitation and utilization did not adequately promote forward or backward linkages within the economy.[26] While these studies did not solely examine the oil sector, they definitely informed subsequent research analyzing dynamics in many extractive and primary commodity sectors.

The Oil Crises and the Rise of the Curse Narratives

The 1960s saw some developments that made the oil sector become one of the most important raw commodities in global trade. Its tonnage to international trade and shipping nearly doubled from 1950 to 1960s.[27] Parallel developments in the decolonization movement contributed further to this dynamic. Many colonized territories, which constitute a large number of oil producers, began to demand for sovereignty and control of their resources. They also instituted stiffer measures for imperial and new corporate entities that controlled the production cartels and coalitions in the sector. This not only undermined traditional concessions, but also created state-owned entities via ISI systems.[28]

A related development was also taking shape when the oil surplus surged and the world's oil producing capacity increased to levels which weakened terms of trade of the commodity. With the oil shock, came the founding of OPEC. Come the 197Os, concerns emerge about the security of oil supply and the failure of oil producing countries to manage their strategic stocks set the pace for academic analysis of the oil sector. The 1973-4 oil embargo after the Yom Kippur War saw the oil prices quadruple and in 1978-79 crises the doubles prices doubled.[29] This created a decrease in global demand for oil. In the 1980s again, with increasing supplies and declining demand, this process increased the vulnerability of oil producers.

As oil prices fell again, producer nations were now exposed to real economic crises. All these developments and by association, the weak capacity of producer nations to shield themselves or cushion their economies from crises awakened the analytical spirits of those researchers interested in analyzing this conundrum. By the 1990s a body literature covering this dialectic encompassed in resource abundance and weak growth linkage laid a fertile ground for the emergence of resource curse models.

The negative relationship between resource endowment/abundance and economic growth is both a conceptual and empirical puzzle. It is also not surprising that a constellation of profoundly influential works remain skeptic and pessimistic, much to the discomfort of the agnostics. The grand claim that resource abundance and poor growth or governance go in tandem in subsumed in titles such as the 'resource curse', the 'paradox of plenty', the 'tragedy of endowment', among others.

Oil in particular, and due to the attendant negative consequences associated with its possession, has earned it the title, the "the devil's excrement.[30] To capture the anomaly that besets (oil) and other resource rich states, the project

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[26] Prebisch and Singer, cited in Ross 1999

[27] Odell, R. 2001. *Oil and Gas: Crises and controversies*- 1961-2201, p.256
[28] Ibid.
[29] Ibid.
[30] This was by the OPEC founder, Juan Pablo Perez Alfonso.

outlines the major features associated with oil-rich states vis a vis a taxonomic classification of the tragic patterns of development. The most commonly revealed paradox is that in the midst of enormous wealth these three challenges analyze in the next sections confront these states.

Description of the Resource Curse

Resource Abundance and Political Stability

Oil rich states score low on indices of political democracy in both procedural and substantive aspects (Ross 1999, 2001; Mehlum Moeme & Torvik 2006; Cabrales & Hauk 2010). They are beset with systemic and structural problems such as plunder and pillage, prebendalism, praetorian and predatory institutional systems. The rule of law, vertical and horizontal accountability are replaced by patron-client networks driven by corruption and weak institutions that lack accountability. Second, these states lack administrative, regulative, and extractive, capacity. Third, their regimes are politically alienated from societal elements.

Such institutional dynamics encourage concentration a lot of power in the executive, in other words, through ultra-presidentialism (Gary & Karl 2003). Additionally, in global rankings, these states rank at the bottom as the most unstable - as insurgency, prevalence of secessionist demands, and instability are common threats to state capacity and endurance, (Ross 2004, Collier 2004, Alao 2007, van der Ploeg & Rhoner 2010).

These regimes also fair poorly in attempts and commitment towards consolidating democratic institutions. Most oil monarchies and oil-rich states have been [prior to recent revolutions] mostly authoritarian systems, and which have made some observers boldly comment that “oil and democracy do not mix” (see, Ottaway 2005). With respect to state strength, some of the new producer nations are some of the most fragile states in Africa. Some observers note that most have undergone coup d’état, to mention a few, these include Sao Tome and Principe, Mauritania, and Equitorial Guinea, (Frynas and Paulo 2007).

Resource Abundance and Economic Stability

On economic indices, these countries do not fare well either. They are known to have intractable development challenges. First, they are predisposed to entrapments of suboptimal policy choices, discretionary spending, profligate and inappropriate consumption (Ross 1999). A common indicator is their vulnerability to the “Dutch Disease” - a situation in which windfall revenues from natural resources (artificially cushions the economy) but makes it vulnerable because it leads to “…appreciation of the real exchange rate and in turn damages manufacturing and other tradable sectors” (Sachs 1982; see also Rosser 2006).

Third, it has been established that on average, contribution of the oil sector to GDP is matched by no other sector. Oil proceeds virtually support the entire economy of many states. Their economies are highly dependent on this sector. Thus, most empirical and theoretical studies show that most oil abundant economies are predestined to undergo slow growth (Ross 1999; Leite & Weidman 2002; Sachs & Warner 2002).

The fourth feature is that these states have a proclivity towards waste of the windfall revenues sourced from their extractive sector and generally succumb to the problems of high external debt. Fifth, class and other socio-economic disparities are common place and their societies exhibit high levels of both conjectural and structural poverty. Finally, these states have most of the world’s lowest HDI indices. For example, Nigeria’s human development index is one of the lowest yet it is the world’s 4th largest oil exporter, (African Development Bank 2007, 108-111).

Resource Abundance and Social Stability

On social-cultural indicators, numerous disappointing trends and patterns emerge. First, most resource-endowed and oil rich states are some of the most socially divided societies. They are prone to separatist and secessionist tensions and conflicts (Ross 2003b, Collier 2004). Second, as the epicenters of the worst human conflicts, they have also recorded some of the worst social conflicts in human history, for example, the Sudan, the Congo, and Angola. Social strife, insecurity, human deprivation further exacerbate this systemic problems, (LeBillion 2001; The Times 2011, Alao 2007; IRIN 2004, Donnelly 2010).

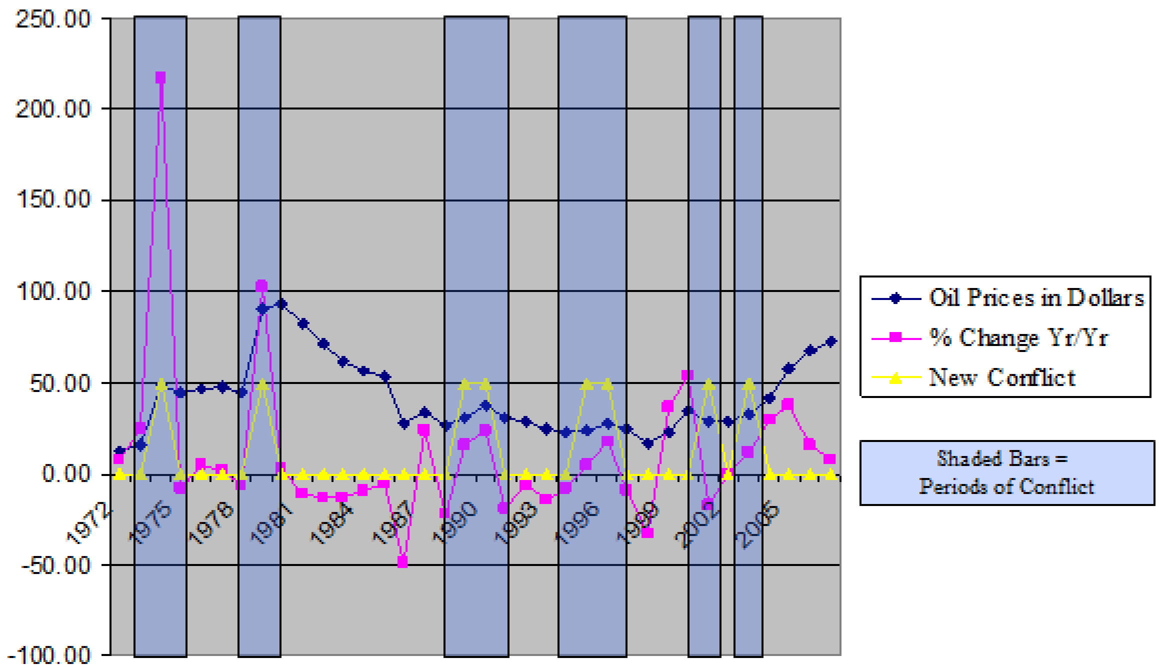
Third, social cleavages are common and mostly organized along regional, ethnic, and class divisions. The perception that all resource interactions are organized around zero-sum politics, serve less to mitigate existing divisive conflicts. Most avenues of social and political participation are organized around pro-ethnic and pro-regional rather than pro-public structures.

A fourth but related problem is the record low levels of levels of social capital. This undermines social cohesion and spreads into other operative systems within the state by weakening its capacity to cope with crises or implement policy, (Rodrick 1999; Rosser 2006). Simultaneously, associational life and trust building are limited by low levels bridging and bonding efforts. Interactions are manifested more in quotidian (everyday forms of engagement] than in organized (i.e associational) types of interactions and they lack supportive structures which can anchor them.

At best, countervailing forces predominate and curtail any such efforts. While there are many arguments as to how resource abundance leads to slow growth and instability and /or poor governance – a general consensus is that it provides incentives and catalyzes tensions which breed conflict. The figure 2, below summarizes some of the arguments linking resources to conflict.

Figure 2: Conflict and Oil Price Fluctuation

1972-2007: Conflict and Oil Price Fluctuation



Source:

Donnelly, B. 2010. Exploring Conflict and Oil Prices: Myths, Realities, and Implications for the Department of Defense. *Economics and Business Journal: Inquiries and Perspectives*, Vol. 3, No.1, pp. 147

In summary, the proponents of the curse thesis/perspectives are united in their claims that oil wealth is a significant factor in explaining poor economic and political development. In other words, oil wealth:

♦Provides rent which sustains illegitimate regimes but destabilizes legitimate ones.

♦Encourages shortsightedness among the leadership thus supports weak policy institutions.

♦Insulates and protects weak governments with poor economic management tools.

♦Precipitates conflict and exacerbate social tensions thus regime instability.

Explanation of the Resource Curse

What factors explain why wealth stifles good governance and economic growth in resource-abundant economies? More so, what is the interplay of these factors or forces in resource-endowed liberalizing polities? This project develops a novel taxonomy for classifying previous studies – not as an attempt to discount the findings of the resource curse narratives but as an attempt to fruitfully engage different traditions and methodologies. It is in such endeavors that we can explain “what works” rather “what is wrong” with resource-rich states.

Most studies categorize explanatory variables based as social, economic and/or political factors, or via a comparison of theoretical models. This project establishes a role for two approaches. The first one is the *prerequisites approach* which argues that there are certain factors that are deemed as preconditions for initiating, nurturing, and sustaining the process and programs for effective governance and overall economic growth. The second is the *path dependent approach* which examines the role of antecedent historical factors and how they define the current policy actions, behaviors, and sequences. Its core feature is the assumption that contingent events set into motion institutional patterns or event chains that have deterministic properties (Mahoney 2000, 507). This section briefly describes each model.

Prerequisites Approach.

This model examines the requisite conditions needed to achieve positive outcomes and/or the proximate and immediate causes of negative outcomes in resource-abundant economies. There are four sets of explanations implicit in prerequisites model. These include:

- ♦ Capacity of state
- ♦ Core decisions of [dominant] elites
- ♦ Coalition of political and policy entrepreneurs and/or groups
- ♦ Cultural social capital
- ♦ Contract institutions

Capacity of the State

The most common type of analysis on state capacity is drawn from the so called state-centric models, albeit, with some sparse accounts aligned towards state-society and (neo)institutionalist bend. A variant of this literature argues that the key explanatory variables[s] are internal to the state. This literature asserts that it is the strength and the scope of state's role in the polity that matter for better governance and economic growth, (Fukuyama 2004a, 2004b). The "scope" is related to the functions and the goals taken on by governments, while the "strength" is its power - the ability to execute policy and to enforce laws cleanly and transparently, (ibid). This view concurs with those of another camp which examines the level of state effectiveness within the polity (see for example Lipset 1959; Migdal 1988; Offe 1996b; Linz & Stepan 1996).

A recurring theme in some of these studies is that the existence of resources is an asset for the state because this allows it to manage, control, and regulate socio-economic order. These assumptions presuppose that the ruling regime would rationally create strong institutions for effective governance of revenue and resources. This is the classical Tillian argument. In the absence of coercive authority and effective capacity, the state becomes a "lame leviathan" (Herbst 1990) or is bound to experience a crisis of legitimacy (Huntington 1968, Karl-Lynn 1996). Thus, the essence of stateness is enforcement, (Fukuyama 2004).

Proponents of this approach would also fault the state for poor policy outcomes and socio-economic decay. Their estimation is that poor execution of policy has detrimental effects on governance and growth. This position is echoed in principle and practice as useful illustrative examples of Structural Adjustment Programs (SAPs) initiated by the Washington Consensus indicate. The core idea behind these conditionality packages aimed at downsizing activities and the size of the state. This was a call to reduce the scope of the state's intervention in economic affairs and provision of social welfare.

The renowned political economist, Francis Fukuyama's (2004) work on *Governance and State Building in the 21st Century* delves into this issue. He argues that in economic development and critical governance issues, state strength matters more than its scope, and yet the latter has been associated with policy crises in most developing countries. To his disillusionment, responses to reform state institutions have failed because reform targets have led to the reduction in both the strength and the scope of the state. The oil sector in East Africa can learn lessons from Fukuyama's extremely influential work as the region works on crafting institutions defining the state's role in the governance of the hydrocarbon sector.

Another distinctive feature of this literature is that state capacity is assessed vis a vis other social forces that complement or compete with it – regional, ethnic, corporate, religious, class, and other related interest groups. This view again resonates with Tillian conceptions of state capacity which emphasize the scope of its ability to neutralize anti-system challengers and external threats (see also Migdal 1988). In the same vein, there emerged in the 90s a terrain of literature on 'Developmental States, (for example Wade 1990, Castellas 1992, Evans 1995). The success in East Asia, they argued, was due to the state's unrivalled autonomy, strategic embeddedness within societal structures, and its leadership in steering networks and nurturing national symbols for loyalty and enterprise which all worked to direct a successful economic growth program.

The success of Norway's' oil sector and Botswana's extractive industries give evidence for the role of state capacity in managing polices and revenues from boom sectors, much more on its apparatus, interconnections, and autonomy as key ingredients for successful governance outcomes. Some studies have also concentrated on functional specifics of institutional autonomy and attribute this success to deliberate efforts by the government in bifurcating roles – so much that financial autonomy and administrative autonomy of different institutions involved is guaranteed (Al Kasim 2006a; Thuber et al 2010 & 2011). Additional studies on oil nationalization projects conclude that weak institutions are a key contributing factor (Guriev and Kotolin 2009).

Core Decisions of Dominant Elites

Elite-centered explanations place the decisions of political elites at the core of their arguments, specifying their linkages to governance outcomes of resource abundant economies. Overall, the main tenet is that governing elites determine the course and success of overall policymaking (Auty 2010). Most of the literature in this camp either describes patterns of policy and elite behavior linkages or advance theories related to cognitive, strategic and affective concerns of the group- as seen in most studies utilizing rational choice, behavioralist, and theories of cognition, (see for example, Ross 1999; Rosser 2006).

One school of thought the – rational choice camp advances the argument that when natural resources provide windfall revenues, optimizing ruling elites will choose among many alternatives to implement -good or bad policies – but with the main intention to increase their power and stay in power. This should be informed by the cost-benefit calculations of ruling elites. A different version explaining governance outcomes, argues that with less revenue to appropriate, there is a high chance that the system challengers and opposition will deviate from staging a coup d'état and this will give room for current elites to stay in power and implement investment programs(Caselli 2005, see also Auty 2010). A final strand of this camp argues that because of [already assured] access to revenue, "the value of political office increases with increased revenue, which lengthens the policy cycles [emphasis mine], thus enables continuity, and empowers elites. This is a 'more optimal path of resource extraction" (Robinson et al, 2006, in Kolstag & Wiig, p10).

Theories of resource curse are overly pessimistic on this account. The predominant conclusion is that the ruling elite and their compatriots can never be responsible custodians of accrued revenue as the windfall generally increases incentives for rent seeking and 'rent seizing' than re-investment (Torkiv 2002, Robinson 2002; Auty 2010). In terms of shepherding the implementation of critical sector policies, nothing much can be expected either. These elites are more concerned with re-election and therefore engage in inefficient distribution of resources across groups or policy sectors to gain rewards for [re]election (ibid).

Alternative literature positions elites' decisions within a broader context of interest groups politics, where elites' decisions are drawn between catering for private rather than broad public interests, the so called patronage networks. Finally, the last group of literature examines decisions of elites in moments of economic or oil crises and/or boom and they model behavior outcomes during this phase. One study demonstrated that in the face of economic crises, certain groups of elites are more adept than others at managing the crises. Evidence points that the military elite [whom have constituted many Latin, some Arab, and Africa state systems] are the least competent – because of they are normally, at the time, fragmented and in lack good leadership (Haggard and Kaufmann 1995).

Coalitions of Political and Policy Entrepreneurs

Effective economic policy and overall governance outcomes are a product of the strategic actions and programs of organized and stable *policy coalitions*, (Sabatier 1993, Tsebelis 2002). The breadth, stability, and interests of dominant *political coalitions* also shape institutional development and policy choice (Poteete 2009, 5). Under pluralistic arrangements, it is assumed that policies are a product of the preferences of policy coalitions organized around specific core beliefs (Sabatier 1993).

Positive policy outcomes are a product of opportunity spaces for cooperation and pluriform arenas of participation. Entrepreneurs will champion the interests of their representative constituencies but with the knowledge that the behavior and actions of other coalitions do matter (Ostrom 1993). Their core beliefs and frames are embedded on particular specific policy sub-systems. A good example is the constellation of consensus coalitions in Norway, Brazil, Malaysia, and other developmental states whose extractive industries have performed well. Policy coalitions are organized around groups representing bureaucrats, politicians and the business sector.

A model of explaining the role of political coalitions has been recently advanced by Poteete (2009) who studied the effects of these coalitions in Botswana's economic success. The study notes that broad and encompassing coalitions serve to protect the interest of producers, by building coalescing systems of unity, and dampening social divisions and competition across ethnic and regional lines. She emphasizes that it buffers the "polarization dynamic". Secondly, the work introduces coalitions as structures of inclusion and its associated positive effects in a resource abundant economy. Summatively, broader political coalitions are more conducive for aligning policy institutions and instruments from revenues towards pro-growth policies, (see also, Tonnelle and Lane 1999).

According to the c*lass model* of coalitions, much associated with the term "rentier class", coalitions formed at the height of a resource boom are generally inimical to growth, (Karl-Lynn 1997).[31] The rentier class dominates the policy system, limiting possibilities for broader and encompassing outcomes and increases conflict in the polity. It uses the state for patronage and to promote respective class interests –which all have a polarizing effect on society. Those who are not privy to the wealth amassed by the rentier class mobilize to counter, contest, or challenge any policy and management programs that have been initiated. In these models politics is taken as an avenue for competition rather

[31] Connelly (2010) begs to differ as he posits that rentier systems stabilize rather than destabilize polities.

than cooperation as seen in political and policy coalitions – yet its strength unlike the other two coalition models is that it sees power as a key variable and thus sorts the problem of defining and situating agency. The three models are nonetheless all deficient in explaining how coalitions can address the problems of collective action – which is very much a defining factor in explaining differences in policy outcomes and governance at large.

Cultural Social Capital

The well known seminal works on social capital-governance linkage argues that a good stock social capital is indeed a prerequisite for effective governance (Putnam 1993) and a boost for economic development (Fukuyama 2000, 98). Scholars in this tradition ascribe to the notion that cooperative efforts emanating from intergroup relations leads to bridging and bonding effects and thus creates positive effects on the socio-economic system. This linkage is described with effect to the fact that cooperation based on broader and cross-cutting forms of consensus enhances collective capacity for citizens to work together.

The causal process links networks of members in a group towards positive social dimensions in society – access to information, assistance and resources (Jensen 2010). These effects can be translated to broader and higher levels (local and state governance) if institutionalized. For example, these social networks have been linked to explanations of differential business performance (ibid). Additionally, social cohesion helps create better institutions, which in turn help promote growth. (Easterly et al 2006, cited in Jensen 2010).

Contract Institutions

Institutions are rules and norms which constrain actors' behavior, (North 1990). They are important for governance outcomes in any polity because they create incentives, shape actor's identities, and the context in which policies are made. Institutional explanations are central to the debates on resource studies because institutional variables have bridged the gap between weaker and strong arguments of the resource curse. In other words, it has been recently established that natural resource wealth undermines growth, under weak institutional conditions, (Jones 2008, 5). States with stronger institutions are better able to capture the benefits or resource wealth and initiate and implement associated legal, regulatory, and policy solutions, (Liebenthal et al 2003; Thomas 2004; Mehlum et al 2006; Cabrales & Hauk 2010; Collier 2007), and curb the profitability of private capture (Kolstag and Wiig 2008; Mehlum et al).

Another leading area of research also analyses the links between centralized and decentralized systems of resource governance as key variables (Espinasa 2008; Thurber, Hults, & Heller 2010, 2011). Some studies have established that decentralization does not matter (Collier and Goderis 2007), while others have established negative conclusions and argue against decentralized regimes for resource abundant economies (Caselli and Cunningham 2007).

Another version of this argument attributes policy inefficiencies to the absence of strong institutions – though vis a vis the disincentives created by rents. In the event that the too much powers get into the hands of the executive, hypercentralization ensues, leading to poor accountability thus leaving the state to abrogate its roles and responsibilities, (Karl Terry,1996, 1997). The wider implication is astronomical waste of resources and instability emanating from inefficiency and inequity in resource allocation and policy incoherency.

II. Path-Dependency

A rebuttal of the preconditions approaches, which is perceived in its privilege of agency, its ahistorical, and deterministic character prompted researchers to innovate new ways of thinking about the curse problematique. According to Path-Dependent (PD) approaches the current institutions (which organize and define governance and/or growth) are a function of structures that were previously created, in other words, to institutional legacies of the past. In this model, preceding institutions dictate the current outcomes of state and individual efforts, (Olelyaran-Oleyinka 2006, 36). These structures can undermine and constrain policy reform. For example, in order to explain why Norway and Brazil or Botswana and Nigeria have different industrialization and governance outcomes in their extractive industries, we examine the divergent evolution of the structures by assessing "initial conditions" in which the programs were embedded. Thus to explain institutional success or inefficiency we must assess their history and their connectedness to the environment. (ibid, 36). Broad structural processes and actions of leaders, it is argued are "constrained".

Applications of concepts from PD such as institutional legacies and initial conditions are slowly but progressively gaining wide currency in the curse analysis. In general historical analysis allows us to how antecedent conditions define and delimit agency (Mahoney 2001). An important illustrative example is in the studies of the role of neo-liberal policies in Africa and comparative institutional approaches which compare growth in East Asia to Africa. Structural reforms are cited as a cause for institutional inertia and organizational rigidities in most African countries (Olelyaran-Oleyinka 2006). SAPs conditionalities rendered real and substantive changes difficult and rendered effective change impossible because of the enormous cuts that were implemented in many sectors. In order to understand how and why some states are prone to predation while others are predestined for success, we need to look at structural historical constraints and how institutions established in past affect current policy and political outcomes (Haggard and Kaufmann 1995; Karl 1997**;** Elster, Offe, and Preuse 1998**;** Acemoglu 2001).

The beauty of this tradition is that it brings out the role of important historical factors which had been relegated as less crucial or simply ignored by prerequisites approaches. This approach can also help us explain the source of emerging conceptions of sector governance. The strength of this approach is that it does appreciate, unlike other approaches, the role of institutional power structures and the social processes of learning, (Olelyaran-Oleyinka 2006). Finally, both agency and structure come into play in the analyses of most path-dependent approaches. From these analyses, one could therefore argue that the common elements of path-dependent arguments coalesce around the following tenets:

♦Linking both structure and agency

♦Ascertaining the historical initial conditions

♦Explicating the sources of incrementalism or inertia in petroleum governing institutions.

Guiding Assumptions of the Research

Following a number of tenets from the two approaches (prerequisites and path-dependency), the key thesis guiding the project is that effective mainstreaming with regards institutionalization and implementation of policy plans and programs in the hydro-carbon sector will largely be determined by the capacity of the state – in terms of its scope, and strength vis a vis other forces [of course, within an environment undergoing political and economic liberalization], and the influence of historical legacies that shape the region's history. The study therefore proposes that:

Assumption 1: There is a higher probability of policy success in the sector if initial investment and policy instruments used in planning and designing of institutions directly target capacity building of state institutions.

Assumption 2: There is a higher probability of policy success in the sector with increased efforts encouraging diverse and democratic participation of stakeholders in both operative and regulative systems of the sector

Assumption 3: There is a higher probability of policy success in the sector with increased efforts and/or initiatives which target transparent conduct of practice in various phases of the sector value chain.

Theoretic framework: Capacity Analysis of Nascent Rentier Economies – CANRE.

The common experience in the global petroleum production and management systems is that oil has an "historical reputation for interfering in politics.[32] An important question then is "are national and regional institutions ready to handle the politics of oil?" Do the states have the requisite capacity to handle the politics of oil? This study proposes a framework for understanding these tow issues.

A framework is a tool with a comprehensive and encompassing model developed to help us understand any theme or phenomena of interest. It serves a heuristic purpose because it enables us to answer questions in an orderly and organized frame of reference. CANRE Approach has been devised as a framework for examining both empirical and normative elements of policy making outcomes. The main goal is to provide a simple tool for analysis policy systems in *nascent rentier economies.*

This section introduces the Capacity Analysis of Nascent Rentier Economies (CANRE) approach and describes the key features of the approach. The section provides a justification for introducing the model to the studies of new rentier states. This is accomplished by introducing elements of capacity and mainstreaming interface in the petro-sector, exploring facets of good governance in the petro-sector, and explicating the role of state capacity vis a vis context factors as an entry point for sector mainstreaming.

In an attempt to pose a theoretically role for these two preconditions and PD approaches, the project develops a theoretic framework modeled on a parsimonious and a holistic evaluation of capacity parameters of new rentier economies. *Figure 2* represents a schematic presentation of the Capacity Analysis for Nascent Rentier Economies (CANRE) framework.

This section also identifies and examines the central theoretical and empirical implications of the CANRE approach. One evident implication is the attendant linkage between state capacity and oil sector governance, and thus the need to highlight and analyze this linkage as a guide to capacity investment in these areas. The second implication is the need for evidence-based policy interventions and especially in such a dynamic and complex sector.

Justification for CANRE:

The justification for and application of CANRE is based on four factors:

- ♦The obvious reason, the paradox that oil wealth does not necessarily translate into development is a concern. Rentier economy is one manifestations of resource curse. There more need for analysis of nascent states
- ♦The qualitative characteristics and experiences, including strengths and weaknesses of nascent rentier states is under-researched
- ♦Analysis is mostly confined to petroleum mega-producers – the so called Gulf States, and Norway as a paragon of success. This calls for attention to new states in different context and thus analysis
- ♦ The extent of policy reform in nascent oil economies, that is rentier states, is an important even though most policy systems are still being developed

[32] Heigle (2012), at his presentation at the SEATINI Conference in Kampala, Uganda.

Advantages of the CANRE Framework. It:

♦Allows for *identification of capacity needs* analysis that can be targeted for improvement - through identification of underutilized and missing capacity

♦Reviews policy process through a *'system-approach' recognizing* the relevant sub-systems and their inter-connections across institutions

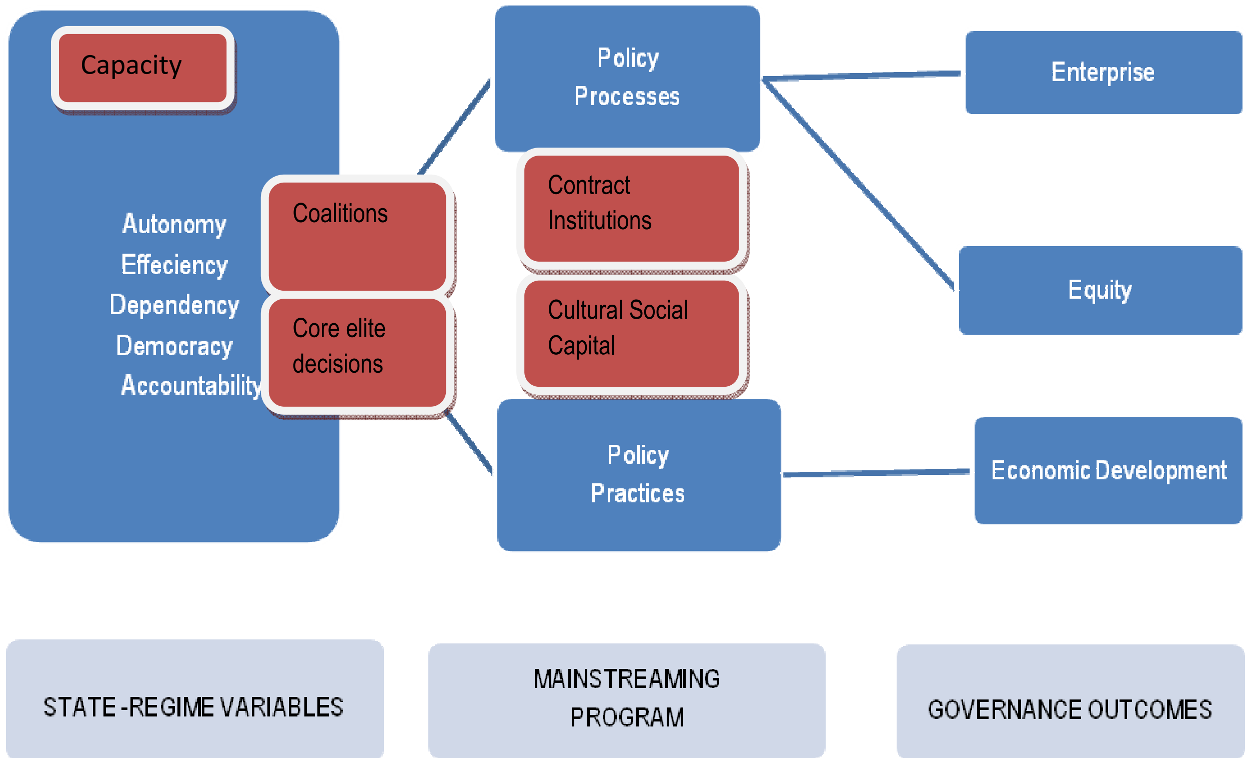
♦Encourages an *ecletic orientation* while appreciating the role for different approaches to the analysis of governance-state capacity interface in the petro-sector

♦Probes the role for an *action-oriented approach to analysis* of nascent policy systems and one which can target efficient improvement of the sector

♦Provides an outcomes framework *interlinking factors and outcomes* which should guide policy makers to estimate and infuse specific and strategic interventions for capacity building

♦Emphasizes inter-linkages, while recognizing that *process and principles* work in tandem to make an efficient policy system

Figure 3: A Framework for Understanding Governance Outcomes in Resource-Abundant Countries.



(Developed by the Author)

Research Design

The project is a qualitative research study which will be complemented with basic quantitative data (that is, statistics, graphical, numeric and metric presentations) in an effort to comprehensively describe and explore the key thematic and theoretical linkages. The project is aligned with the principles within an emerging consensus among theorists that qualitative studies can also offer valuable tools for exploration analysis, and explanation (King, Keohanne and Verba 1994, Yin 1994).

Case Study Research Design

This project is a qualitative Case Study of the East Africa's emerging petroleum sector. The unit of analysis is the sector's policy system. It examines the policy domains of each East African country. A *case study research design* (CSRD) will be useful in helping the researcher to identify complexities exhibited within the sector. Because governance is a complex variable and defies simple illustrations, the CSRD will simplify this task by isolating significant aspects of each case.

Secondly, the study employs *comparative analysis* so as to examine similarities and variations between Norway's planning systems prior to achieving success and that of an East African – specifically Uganda's. This is based on the fact that Uganda is in the phase of planning and implementation tools are being devised and institutions are being designed. Uganda has also been chosen based on the assumption that it can serve as a *Crucial Case*[33] and which will enable the study to challenge, confirm, or extend the stated assumptions, and within a larger framework of the Rentier State Theory.

Comparative Analysis

It was also based on a comparative design, which will explore the differences between Uganda and the EAC region and equally with other successful and less successful sector programs in the globe. This will entails examining institutional and policy mainstreaming processes in countries such as Norway so as to ascertain the main explanatory elements that lead to these variations. A comparative design increases the analytical leverage of CANRE model.

Data Collection

The main strategy of data collection was via desk studies. This involved extensive review of theoretic and thematic literature which was accessed in various library facilities such as the African Research and Resource Forum (ARRF) in Nairobi, the EAC Library in Arusha, and at university and private corporate institutions in Kenya, the United States, and across EAC partner states.

Data collection also entailed field visits to EAC partner states (Uganda, Tanzania, and Kenya) and to EAC offices in Arusha. Since triangulation was a guiding framework for data collection, structured and semi-structured interviews were also conducted and data was gathered from government officials (MPs. petroleum commissioners, and parliamentary staff), corporate (oil companies representatives), and civil society institutions - encompassing advocacy, environmental, media, human rights, local and global NGOs.

Observation and attendance in policy discussion fora and capacity-building workshops complemented these efforts. The main data types assessed were policy responses (action and inaction) on the part of policy makers. Specific data analyzed were policy statements pronounced by policymakers and scope of policy action (or inaction).The main sources of data which have been consulted are:

- ♦Published studies covering oil sector and its linkage to macroeconomic systems.
- ♦Field visits to EAC state and offices.
- ♦Petroleum Bills, statutes and legislations.
- ♦Excerpts, commentaries, and written informal documents about the sector.
- ♦Newspapers articles - regional and global- such as The Times, The Economist, New Africa.
- ♦Formal policy statements from central and regional institutions.
- ♦Policy briefs and reports
- ♦Review summaries of statutes and legislations.
- ♦Documents from international NGOs – such as EITI and PWYP documents

Data Analysis and Findings of the Study

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[33] By definition, a Crucial Case is "one in which a theory that passes empirical testing is strongly supported and one that fails is strongly impugned, (George and Bennett in their *Case Study and Theory Development in Social Sciences*, 2005, 9). The Crucial Case was first designed by Harry Eckstein. He used his two models of crucial cases, namely most- likely and least-likely cases to test theory.

The process of data analysis entailed collecting, collating, classifying, and connecting common themes and issues with frequent mention in policy documents and published sources. As was noted in earlier both qualitative and quantitative data will inform the analysis process. Thematic classification and analysis are the key aspect of this process.

Analysis of the Policy Landscape of the Petroleum Sector in East Africa

Introducing and Defining State Capacity

This section exclusively outlays the policy features of the region's policy sector by assessing specific elements in each country. The second aim is to calibrate Uganda's policy process onto a comparative meter and a theoretic-empirical one. The former compares Uganda's experiences to Norway while the latter applies analytical constructs that aid in explication and ascertaining evidence for sector strengths and weaknesses. The section also highlights the maps, traps, and gaps in policy mainstreaming by examining some salient (substantive and symbolic, strong and weak) features of policy systems implementation. It endeavors to not simply catalogue elements of state capacity but to situate these elements within the policy systems that inform and implement public policy.

The lexicon of state capacity has its roots and usage in various research traditions, disciplines, and analytical tools. Nonetheless, there is an emerging consensus that state capacity is constitutive of functions, institutions, abilities and capabilities. An overarching element is its ability to initiate and implement enduring and effective policies. In mainstream analysis state capacity is generally defined as "the ability of the state to formulate and implement strategies to achieve economic and social goals in society, (Kjaer, Hansen & Thomsen 2002).

Most definitions are extensions or minor diversions from the classical Weberian description. Fukuyama defines state capacity as the "strength and ability of the state to " enact statutes and to frame and execute policies, to administer the public business with relative efficiency, to control graft, corruption, and bribery, to maintain high levels of transparency and accountability in governmental institutions".In other definitional versions, state autonomy is considered as an asset for (insulating it) against the social pressures and demands of society and to maintain its authority at the same time. Another element of state capacity its ability to limit the contagion of civil conflict by quelling pressures and conflicts generated by social, economic, and political struggles within the polity – thus enhancing its stability. A third version adds coherency of administrative systems and embeddedness of the state with the private sector and business, market systems as a function of an effective policy output.

Explicating State Capacity as an Entry Point for Sector Mainstreaming

In 2011, a large percentage of oil producing countries were categorized as the least developed countries. The same cohorts constitute a larger bulk of inept, weak, fragile, corrupt, and rentier autocracies (Hendrix 2010). Similarly, the well known oil cohort is politically the epicenter of autocracies. An understanding of the manifestation of weak state capacity is warranted based on the fact that wealth creation is associated with lack of state capacity. Very few studies on the resource curse and on rentier states seek an understanding directly from the angle of state capacity. Secondly, there is hardly any framework for understanding the capacity needs of *new rentier economies so* as to ascertain their vulnerability, culpability, and also the potential of these states.

Third, the ubiquity of state-regime variables as shapers and makers of policy outcomes suggests the need for analysis of state capacity. Finally, many studies have not linked state capacity to outcomes of the resource curse or any of its manifestations yet they emphasize reforms and institutionalization based on good governance. These measures can be counterproductive in the absence of requisite state capacity. This project seeks that understanding of the long-term and short term consequences of state capacity in a nascent oil economy.

Exploring Capacity-Governance Interface in the Petro-sector

State capacity is the backbone of efficient governance – that is, well informed policy making, anchored on a progressive ideology, and prudent management of political and socio-economic order. Secondly, administrative, coercive, and extractive capacities are basic variables that define the difference between good and bad governance. This study emphasizes that capacity must be viewed in both systemic and functional orientations. This is because the state is both an organ of governance and part of the larger body politic. Finally, state capacity has implications for overall exercise of governance in the polity. It is therefore important to diagnose and unpack this important linkage.

Good governance is a fundamental principle in the agenda of many national, bilateral, and multilateral institutions. In its varied meanings, the concept generally seeks to outlay the functions of an effective state. Minimalist conceptions of good governance describe these roles to include: provision of defense, law and order, property rights, macro-economic management, and public health as well as ability to protect the poor. In simple terms governance is epitomized by "predictable, open, and enlightened policymaking, a bureaucracy imbued with a professional ethos acting in furtherance of public good, the rule of law, transparent process, and a strong civil society participating in public affairs" (World Bank 1993). The key implication here is a forthright explication of strong capable state with capacity for efficient policymaking.

Owing to the ubiquity of inefficiency and underdeveloped institutions in resource-rich states, perennial attention of most governance experts has been to highlight the need for these states to propagate and implement immediate and strategic measures to avoid the short and long-term impediments to policy efficiency. In this light, deliberate measures must target areas that are prone to systemic failures and those that limit state's ability to undertake orderly, well- sustained process and one that equally builds on the strengths of non-state actors rather that that those isolates them.

The major issue that merits attention is governance systems which uphold the efforts towards institutionalizing processes and programs for operative, administrative, regulative systems. The fundamental concern is to ensure that policy systems are embedded and guided by rule-bound principles and similarly processes must be interlinked to these principles, without which failure looms large. Mere rhetoric and poor commitment to good governance is a recipe for failure.

Analysis of effectiveness and capability of state apparatus in nascent producers is an important starting point for developing data that is critical for improving the missing or inadequate capacity in such states. Experiences of Norway - the classical paragon of success - offers instructive lessons related to the importance of early investment in building capacity systems of state institutions. It affirms that hastily rushing to create institutions with no capacity is no solution either. The penultimate objective of these efforts should not just be circumscribed around one organization or dimension of capacity– all dimensions of capacity should be targeted, utilized, and integrated to the wider systems for overall effectiveness. Similarly, practices must be congruent with the principles that anchor management processes and structures in which they are embedded.

Table 1: Capacity-Governance Interface in the Petro-sector

	Dimensions	Rule of Law	Regulatory Quality	Government Effectiveness	Voice and Accountability	Analytic Approach to State Capacity
Authority i.e coercive	♦ Claimed monopoly to use of force ♦ Enforces law & order ♦Military capable and resourced ♦Eliminated vestiges of praetorian institutions.	√	√	√	√	◊ Weberian ◊ State-society theories ◊ Political Development
Bureaucracy	♦Bureaucratic finesse - professional skills ♦Ethos of efficiency, rationality ♦Responsive agents ♦ Specialized ♦ Pliable and adaptive	√	√	√	√	◊Weberian ◊New public management
Capability-administrative	♦strong states-Manages /governs effectively ♦ Extracts resources ♦Respects property rights ♦Withstands societal pressures	√	√	√	√	◊State-society ◊ Institutional design
Democracy	Procedural & Substantive ♦Podium and platform for participation ♦Rights and freedoms ♦Horizontal and vertical accountability	√	√	√	√	◊ Social capital ◊ Institutional design
Embedded Autonomy	♦Interdependency ♦Functional linkages ♦State designs sound tutelage & delegate systems	√	√	√	√	◊ Developmental state ◊ Neo-Weberian, ◊ Social capital
Financial capacity	♦Sound revenue extraction ♦Low levels of dependency on oil	√	√	√	√	◊ State-society ◊ Fukuyama
Geography	♦Supportive ecology ♦Trans- boundary management ♦Geo-strategic functions	√	√	√	√	◊ Tillian approach
Hangar of Unity	♦Repository of national symbols that mobilizes citizens ♦ Cultivating progressive ideology that unifies	√	√	√	√	◊ Tillian approach ◊ Social capital
Institutional predictability &reliability	♦Respects property rights ♦Formal & Informal interface soundly	√	√	√	√	◊ Weberian ◊ New Institutionalism ◊ Neo-Weberian

(Developed by the author)

Situating the Policy Features of the Region's Nascent Oil Sector

Maps of Mainstreaming Practices

This section endeavors to assess the various types of policies that animate the current oil sector system. The intention is identify and highlight the scope and scale of mainstreaming in the sector since the 1980s when the region started proposing bills and enacting legislations which currently inform the institutional and legal framework in the oil sector.

The Core Principles of Mainstreaming included:

1. Identifying gaps and loopholes in policy - and using this information to target institutional and organizational, capacity building
2. Utilizing existing capacity - reforming, revamping and revitalizing this capacity if and when necessary to make advancements in sector development.
3. Isolating vertical and horizontal mainstreaming goals and identify where they are best suited to make significant changes and impact.
4. Supporting the inclusive involvement of all appropriate stakeholders by creating incentives for engagement and participation in the different sectors of the value chain.

Tools for policy mainstreaming: Mainstreaming elements of policy-making encompass both action (and inaction) on the part of relevant policy makers. The study found that the various types of tools for executing policy include:

- ♦Language tools
- ♦Executive influence tools
- ♦Administrative tools
- ♦Legislative tools
- ♦Symbolic tools
- ♦Non-decision

Language Tools

The recent oil and gas discoveries have put East Africa on the world map in as far as its role in international relations is concerned. With such a status the leaders have utilized this opportunity to create a narrative which coalesces around major economically-linked national symbols such as: national content and government participation, developmentalism, integrated growth, and equitable benefit sharing of national resources.

A content analysis of existing country policy statements, directives, and provisions give indications that leaders are actively using language as a symbolic policy cue to inform and assure their respective citizens of their intentions to use these newly discovered resources to achieve the ultimate goal of "reducing poverty and enhancing economic growth".

A second element of language as a policy tool is the linked to references on "commitment" towards using oil resources to serve the needs of the nation. For example, in several presidential addresses, Uganda's President vowed that oil will be a "blessing and not a curse" for Uganda and that the resources will be used to support and provide proper welfare for Ugandans. He categorically states that oil money will not be used for consumption but for capacity building.[34]

These statements are reiterated across many platforms and rephrased in many versions. Language serves as proxy element of policy because it is an exhibit of the intentions, beliefs, priorities, goals, and the attendant strategies that leaders and stakeholders will use for operationalizing policy.

Executive Influence tools

1. Presidential Decrees and Directives

One of the signs that the government of Uganda is making headway in sector development and some aspects of implementation is based on stipulations from existing provisions in Presidential Directives. An historic example is the 1986 directive which took force when the National Resistance Movement (NRM) took office under President Museveni. The Directive stipulated that there must be concerted efforts and thus channeling of resources towards:

- Capacity building of Ugandans in petroleum exploration and production
- Promotion of petroleum exploration through acquisition of geological and geo-physical data and attraction of investors
- Monitoring of exploration companies

2. Appointments:

The various appointments and transfers of government staff in the petroleum related institutions are carried out in order to ensure continuity, efficiency, and implementation of policy. The level of oil institutional expansion is one of the indicators of bureaucratic growth and adaptation.

Administrative Tools

Institutional downsizing

The study found that there are positive indicators showing that as the sector becomes a more important element of the economies, there are equal changes in administrative principles and practices. A general account of the specific country efforts shows modest scope of mainstreaming but it the efforts are intense none the less. Each country, albeit with different instruments is striving to create an enabling environment for policy initiation, enactment, and adoption, and have thus targeted administration as a key component of capacity enhancement.

A second element of administrative mainstreaming is a growing orientation towards social and organizational learning. A good example of such a development has been seen in Uganda. Top policy makers have decided to amend some sections of the Petroleum Bill to allow for adjustments in the provisions on concerning the proposed role of the directorate. Anticipating this move could enhance efficiency, the legislators amended the new Petroleum draft Bill, which if implemented, it will exclude the petroleum directorate.

Secondly, a new study by the Global Witness noted that previous that this provision in the latest Bill unlike the previous draft bills will easen governance as it will help in the process of streamlining institutions and avoiding duplication of effort.

[34] See the article 'Oil Money not for Consumption", by Ruth Mubiri, in The Monitor, 12th February, 2012.

Improving bureaucratic capacity

Bureaucratic debility is a common feature of state weakness. The bureaucracy normally acts as the stronghold of inefficiency in weak states. The bureaucracy can also be a bulwark against sustained progress when it prerogatives are informally linked to other agencies of the state through patronage or clientelism.

Uganda has attempted to deal with these challenges by; establishing professional training programs for bureaucrats; professionalizing the system; utilizing inter-country coordination and information sharing; and decentralization - where some offices have been stationed in both Kampala and Entebbe

Capacity building of administrative systems has been implemented through donor support from NORAD. The first program was initiated in 2005 and ended in 2009. This was the 'Strengthening the state's Administration of Upstream Petroleum Sector in Uganda" program and its aim was to help PEDP's capacity for exploration phase. A second program was initiated in 2009 which broadly covers revenue, resource, and environmental management. PEPD outlines that some of the success have been:

♦ Capacity building of staff in government ministries and departments
♦ Support to the development of a curriculum and training of lectures for the Uganda Petroleum Institute
♦ Development of an improved data management system
♦ Establishment of the petroleum National Data Repository
♦ Development of an Environment Sensitivity Atlas for the Albertine Grabben and a Strategic Environmental Assessment
♦ Completion of a feasibility study on refining of crude oil in the country

Improving Technical Expertise

The governments of Kenya, Uganda, Tanzania, Rwanda, and South Sudan are all using a human capacity development model which rests on the assumption that knowledge enhancement is the key for petroleum sector growth. This model is used as a tool for nurturing and improving technical capacity of the needed workforce and expertise in the sector. Students have been sponsored and sent abroad to acquire knowledge and state-of- the-art skills from top universities in around the world.

A cohort of this group has been instrumental in the geo-seismic studies that culminated to successful efforts in its oil basins. The Kenyan government in collaboration with Tullow Group Scholarship Scheme just recently sent students abroad for post-graduate studies to take courses in oil and gas related fields.Uganda again serves as an illustrative example of modest attempts at data mainstreaming in the oil sector. The Ugandan government has ensured policy enforcement for the upstream sector by mainstreaming such programs in the PEPD.[35]

The state has been commended for its efforts (beginning 1991) in facilitating data acquisition as a policy tool management and for attracting investors into the sector. PEPD notes that some of the data dissemination and promotional efforts they have used include: participation and academic marketing at conferences such as the American Association of Petroleum Geologists (AAPG), Society of Exploration Geophysicists (SEG), at the East African Petroleum Conferences, road shows and company visits.

[35] The PEPD is the technical arm of the government which is responsible for supervising and managing upstream petroleum activities

4. Governance arrangements

All regional constitutions vest a large portion of management of the petroleum sector to the state by actively asserting and linking these powers to the need to protect national resources and to enable an inclusive benefit-sharing mechanism and overall socio-economic development process. This involves the establishment of autonomous and quasi-autonomous institutions which are involved in the vast regulatory, administrative, and other operations in the sector.

Sector governance structures assume a tripartite model in which authority is divided among three principal institutions; 1) a government ministry to direct policy, 2) a national oil company to represent and manage the government's commercial interests; and 3) a petroleum authority whose role is to act as a principle regulator, supervisor, and enforcer or operations within the petroleum sector. While this model was developed borrowing lessons from Norway, it does not necessarily mean that these features have translated into tangible policy success for the region as it has done in the latter.

The state agencies and institutions roles are to: make and initiate laws and policies related to oil and gas exploration and production; oversee if policy systems are working to implement these laws; regulate activities and actions of various stakeholders in the sector operations; administer and organize licensing, contracting, and fiscal regimes which guide the conduct of operations and enforce standards within the sector.

Findings from the study reveal that due to the complex and nebulous character of the administrative systems in within the sector, operations could create rooms where the system is prone to abuse and neglect due to role overlap, duplication of effort, poor coordination, and confusion (Bazira 2012). These are fears allayed by experts who foresee problems with the governance mechanisms currently being initiated and development in Uganda's nascent oil sector.

In Kenya the National Oil Corporation of Kenya (NOCK) initially acts as the government advisor on pricing and other related oil issues. Previously, it was also involved in commercial investments in the sector and was allowed to import 30% of the country's crude oil until 1994 when the oil market was deregulated to allow for open competition among different players. Today, it has a diversified investment portfolio which encompasses activities in retail networks and product development particularly liquefied petroleum gas (LPG) and lubricants.

It has also had its share of problems though one notable indicator of success of NOCK is that it has successfully managed to compete in Kenya's post-94 liberalized oil market. Its current inland retail market share rose from 0.02% in 2008 to the current 10% (NOC 2012) and there is strong commitment in the ambitious 2013 strategic plan to increase NOCK's leadership in the oil market. The Kenyan example can serve as a rubric for lessons about potential and challenges for Uganda and the region.

Uganda is currently preparing ground for the NOC which is proposed to be the anchor institution that will represent the state's interest though there is anxiety and skepticism across a group of sector stakeholders about its relevance, sustainability, timing and role (see, the World Bank, ACODE 2010 ,Bazira 2012, Heigle 2012). In Tanzania the TPDC generally acts as the both the regulator and state representative investor in the sector. A system where the same technocrats are the policy makers, the regulators and also the implementers cannot be efficient and is subject to abuse, analysts said.

Sudan's Draft Transitional Constitution makes provisions for the creation three administrative bodies: the National Petroleum and Gas Council whose role is mainly policy monitoring and implementation; the Ministry of oil and gas whose main aim is to negotiate contracts, initiate and formulate legislations, and sign contracts among other roles;

and a National Petroleum and Gas Corporation whose role is to represent government interest in the upstream and downstream sector activities.[36]

Professionalization and Building of Civic-Legal Capacity

Uganda's Parliamentary Forum on Climatic Change (PFCC) is one of the very innovative features of process and program mainstreaming in the current efforts to operationalize good governance in the petro-sector. Its role comes useful in parliamentary advocacy and in capacity building. This year PFCC organized a capacity building workshop for MPs referenced "Supporting Parliamentary Oversight on Proposed Parliamentary Bills". It was held on 6th March 2012 in collaboration with Civil Society Coalition on Oil and Gas (CSCO), International Alert, and Advocates Coalition on Development and Environment (ACODE). This workshop was organized with the recognition that there are myriad implications of petroleum production, including environmental impacts and revenue regulation and thus necessitated the need to prepare and work with MPs in conjunction with experts from civil society.

Advantages of PFCC model. It:

- Acts as a consortium for parliamentary and civil society expert for a for gathering, sharing, and disseminating important technical, legal, and policy oriented knowledge on specified bills.
- It is a medium through which civil society voices may contribute to the agenda, (PCFF) and thus become an important agent in the process.
- It is an platform and avenue for infusing requisite and timely legal apprenticeship for parliamentarians to be active in the legislative process.
- It improves civic (institutional and individual) capacity of both parliamentarians and civil society organizations
- It is a for a forum for institutional socialization which improves the interactive capacity and organizational ecology of the policy making systems as MPs get to gather with and gain insights, interests and ideas from the civil society constituency.
- Improves MPs debating and negotiation prowess before bill tabled to parliament and can provide recommendations when bills in parliament

Legislative Tools

The current legislative arena in the oil sector is very dynamic in most East African countries. There is a lot of ongoing activism across different stakeholders and institutions. This has paved way for the introduction of different bills in parliamentary institutions, the most notable ones being the Petroleum Bills and Draft Bills. Multiple stakeholders representing different constituencies are engaging in debates to scrutinize bills, introduce new issues and agendas and, to share and discuss ideas. It is through stakeholder activism that some of the statutes and requirements have come into being and are being re-enacted.

The rules and regulations governing the management of resources and revenues in the oil and gas sectors in the region are enshrined in the constitutions of specific states as bills and Acts of Parliament, statutory laws, by-laws, presidential decrees, and directives. Regionally, it is common to find a basic overarching structure for managing and regulating the sector where most codes are anchored on the petroleum exploration and production legislation. A typically such exist as an omnibus bill.

[36] See Shankleman, J. 2011. Oil and state-building in Sudan, p 8.

Generally, despite minimal country variations, most activities in the oil and gas sectors are governed by Petroleum (exploration and production) bills and Acts of Parliament which do stipulate guidelines for the legal framework that guide and regulate contracting, licensing, administering, and negotiating principles and regimes between the governments and the investors.

In these bills, government participation is guaranteed in various forms: first, as the chief custodian of resources of the country and the citizens; second as the regulator of conduct of business; third as the protector and defender of country's resources; and finally, as the administrator of major operations that straddle financial, logistical, legal, and institutional sectors. For example, the South Sudan's Petroleum Bill of 2012 vests ownership in the people but the management on the government which acts as their representative for their own benefit.

Secondly, in these bills, there are clauses empowering ministers (in many cases, the Minister of Energy and/or Mineral Development) with the role of negotiating, signing, licensing, and canceling contracts, including PSAs. In Clause 9 of the Petroleum Bill of Uganda, the Minster also approves plans for field development and data management. The ministers are also accorded assessment and oversight functions of the industry besides coordinating the different sub-ministerial agencies and departments. This is most common in Kenya, Uganda, and Tanzania.

Similarly, these Constitutions guarantee the parliament the oversight role, mandate and influence to oversee the implementation of policy through scrutiny and via the representation of citizen's interest in the lawmaking process. It is assumed that the parliament works in the interest of the people and the country as a whole and is a checks mechanism for the abusive tendencies that characterize many executive arms of the government.

Regulatory Tools

The East African states have streamlined regulatory operations in the oil sector within their respective ministries of energy. Sudan's oil sector regulator is the National Petroleum Commission (NPC), Kenya's is the Ministry of Energy, and Tanzania's is the Petroleum Development Corporation (TPDC); while in Uganda it is the Ministry of Energy and Mineral Development. [37] Rwanda's chief regulator is the Ministry of Public Works, Energy, and Water while Burundi's is the Ministry of Energy, Water, and Mines.

The legal and institutional frameworks guiding upstream, midstream and downstream sectors are embedded in specified sections of country Constitutions, bills, and legislative Acts of Parliament which provide guidelines that set out the rules, rights, and responsibilities of different governmental and non-governmental stakeholders. These specifications are also normally referenced in statutes, statements, directives, and other official policy documents that are directly or indirectly linked to the oil and gas sectors.

The second component of regulatory regimes relates to the specifics of revenue management that determine allocation, payments, and compensation rules and principles. There are also regimes that have been created with the intention of managing and regulating systems for revenue exchange, lease transfers, and benefit structures. The major components of these regimes gauge the costs and benefits for both the government and foreign contractors. The aim is to create incentives within these regimes so as to attract investors who will expand and develop the sector.

[37] There are many other structures that complement the works of major government institutions. These include; directorates, national petroleum institutes, and universities.

The main tools for operational zing the regulatory principles are anchored on different types of fiscal arrangements operating under different fiscal regimes chosen by respective governments. Petroleum fiscal regimes refer to "the fiscal instruments and the contractual framework, which define a host country's share of the wealth accruing from petroleum production through a host of instruments – bonuses, royalties, profit oil, taxes and government participating interest " (Amaoko-Tuffour & Owusu-Ayim 2010).

Characteristically, the governance of fiscal regimes and activities in the petroleum sector in most governments assume three distinct types of fiscal arrangement.[38]

1. ◘ *Concessionary system,* in which a host country receives and collects payments in form of royalties and taxes from companies involved in mineral extraction and/or production. In this arrangement, some models allow private ownership and rights over resources to private companies while others do not.[39] Examples of countries that follow this model are: the USA, Canada, Brazil, Algeria, South Africa, Norway, UK, Thailand and Australia.

2. ◘ *Contractual system,* in which the government retains the title to minerals in its territory while the contractor receives a share of the proceeds in various forms. These models arrangements vary – in some, companies receive revenues from sales of its share of production while in others they are allowed to receive oil and gas in the form of repayment for cost recovery, a share of profits, and or services rendered.[40] Examples of countries that follow this model are: Egypt, Gabon, Indonesia, Malaysia, Yemen, Trinidad and Tobago, among many others.

3. ◘ *Risk Service Contract,* in which a "contractor is paid in cash or in oil or gas for his services in addition to arrangements to recover all or part of the costs"[41] and both the host government and the company share the risk and the latter never get to hold the rights to the title**.** Examples of countries that follow this model are; Mexico and Iran; Kuwait and Iraq are considering using them.

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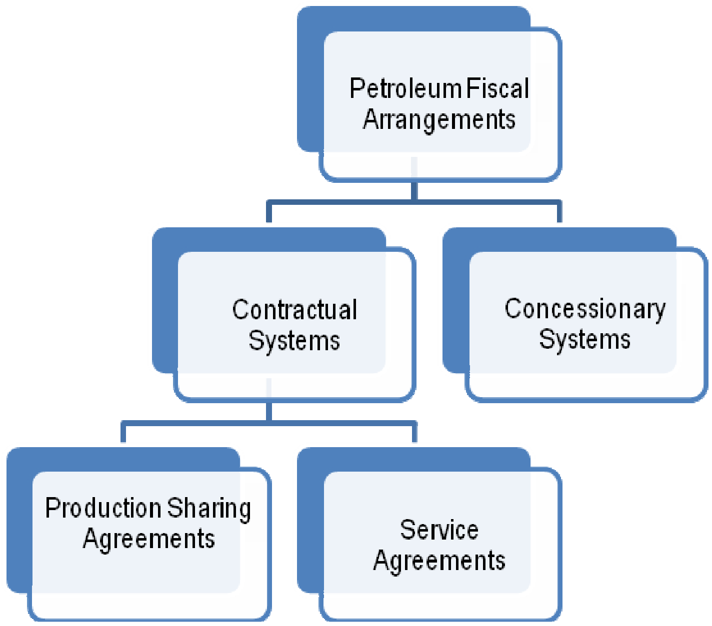
[38] Generally, it is common to see a good number of studies categorizing fiscal arrangement only into two types dominant types, namely *Concessionary and Contractual*
[39] Wright & Gallun, Fundamentals of Oil and Gas Accounting, 2008, p. 678
[40] Ibid
[41] Ibid

Figure 4: A General Classification of Petroleum Fiscal Arrangements



Adapted from, Kjemperud, Alfred. 2004. General *aspects of petroleum fiscal regimes*, PETRAD, Cambodia.

Table 2: Differences between Concessionary and Contract systems

	Concessionary systems	**Production Sharing Agreements**
1 Ownership of mineral national resources	Held by sovereign state,	Held by sovereign state
2. Title transfer point.	At the wellhead	At export point
3. Company entitlement	Gross production less royalty	Cost oil/gas + profit oil/gas
4. Entitlement percentage	Typically 90%	Typically 50-60%
5. Ownership of facilities	Held by company	Held by the state
6. Management and control	Typically less government control	More direct government control and participation
7. Government participation	Less likely	More likely
8. Ring fencing	Less likely	More likely

Source: Ahmadov, Ingilab (2009) *Contracts and Revenue sharing mechanisms – an international perspective*, Public Finance Monitoring Center, Baku, p.9

Contractual Components of Fiscal Regimes in East Africa

The fiscal elements of regulation in the oil sector generally spell out the codes for payments of Royalty, cost recovery, Signature Bonus, state participation, and Profit Oil split between the parties (Kaliisa, PEPD Uganda). Two points are worth noting about factors that impact the design of fiscal infrastructure in nascent oil producing oil states. Typically, fiscal regimes for newly- emerging producers are: 1) likely to be more investor-friendly than fiscal regimes in well-established petroleum producing countries (Cottareli 2012) and secondly, fiscal regimes for mature oil producers tend to give a higher government take compared those that have fewer discoveries or those that are still trying to attract investment (Johnston 2007, cited in Amaoko-Tuffour & Owusu-Ayim 2010, 10).

The study found that the most widely adopted and favored type in East Africa is the contractual fiscal regime which is implemented under the Production Sharing Agreements (PSAs). Kenya, Uganda, Tanzania, and South Sudan all use such arrangements. Rwanda also uses PSAs in its gas sector for regulation and management programs. Concessionary systems are not as common though countries have experimented with this mode in earlier periods prior to the discoveries. See Table 3 for this summary.

Kenya's fiscal system initially relied heavily on a Royalty system to govern the petroleum sector until 1986 when the law was revised (referred herein as the Petroleum Exploration and Production Act, 1986), and the new order shifted to using the PSA system. The Act (Cap 308) gives provisions regarding how negotiations and agreements under

PSAs are to be made and implemented. The PSAs are also governed by the Income Tax (Amendments) Act and the Environmental Management & Coordination Act, 2000.

Table 3: Distinctive Component s of Petroleum Fiscal Regimes in East Africa.

Country	Oil & Gas governance	Specific Legislations Governing the Legal & Institutional Framework	Contractors - Companies and Consortiums (Upstream, Downstream, Midstream)	Government Take
Kenya	Contract is Production Sharing Contract (PSC) PSC's are subject to negotiations Petroleum Industry Regulator is the Kenya Ministry Energy	The Petroleum Act, Cap 308, 1986 The Petroleum (E & P) Regulations The Income Tax (Amendments) Act Environmental Management & Coordination Act, 2000 - NEMA Petroleum Income Tax Law	CNOOC, TOTAL, SHELL, AMOCO, BP, LUNDIN, Marathon Oil Corp. (MRO), Africa Oil Corp. (AOI), Anadarko Petroleum Corp. (APC), Camac, Global Pacific	Negotiable
Uganda	Oil Industry Regulator: Ministry of Energy Contract is Production Sharing Contract (PSC)	Previously the Petroleum Exploration and Production Act 1985 Petroleum (Exploration and Production) Regulations 2003 , and the Uganda Mining Act 2003 Are now governed by the Income the Income Tax (Amendment) Act 2010 and the National Oil and Gas Policy of 2008.	Total France, CNOOC, Tullow,	82%
Tanzania	The Tanzania Petroleum Development Corporation Contract is Production Sharing Contract (PSC)	Petroleum Exploration and Production Act of 1980 Public Corporations Act No. 17	BP Tanzania Limited, Pan African Energy, Petrodel, Maurel and Prom, Ndovu Aminex, Ophir Petrobas, Afren Plc, Open, Trans-Canada Pipelines TAZAMA Pipeline Limited, Mafuta House Investment Company Limited	74%

			Tanesco, Ocelot	
Rwanda	Industry is regulated by the Ministry of Public Works, Energy and Water Contract is Production Sharing Contract (PSC)	Governed by law No. 39/2001 of 13th 9/1/2001	Vanoil Upstream sector still very new. Most recent PSC	-
Burundi	Burundi has a very small upstream sector Uses Mining Concession	The Presidential decree No. 110/314 November 2007 Décret-loi no 1/138 du 17 juillet 1976 portant Code Minier et Pétrolier de la République du Burundi (the Mining and Petroleum Act 1976)	-	-
Government of South Sudan -GoSS	Regulator is the Ministry of Petroleum and Mining And CPF-linked National Petroleum Commission Contract is Production Sharing Contract (PSC)	Financial Management and Accountability Act, Exploration and Production Sharing Agreement (EPSA) contractual regime	CNPC, Petronas (Malaysia), and ONCG Videsh (India), CNOC China, Lundin (Sweden)	-

The Petroleum Act empowers the Minister for Energy to sign the Petroleum Sharing Contracts (PSCs), which includes no signature bonuses. A recent study mentions that Kenya has one of the toughest fiscal regimes in Africa because of its high Government Take (Njeru 2010, 12).[42]

Tanzania's PSA arrangement is governed by the Petroleum Act of 1980. PSA agreements are negotiable and the regime operates under considerable flexibility (TPDC). These include those governing issues such as acreage, work programs, and economic terms. Under this act, an oil company may be granted exclusive rights to explore for and produce petroleum. PSAs in Tanzania are also governed indirectly by the Standards Act, 1975; the Environmental Management Act, 2004; Fair Competition Act, 2003; and Land Act, 1999, among others.

One prominent feature of PSA structure in Tanzania is with regards to the role of TPDC and how PSA frame acts as a tool for encouraging government participation. In other words, under the Participation (Joint Operation) Clause:

"…There is an option for TPDC to participate in development whereby it will contribute to Contract Expenses. The MPSA provides for TPDC to negotiate a participating interest at 20% of the contract expenses, excluding exploration (and appraisal) expenses. TPDC's Profit Oil Share will then be increased by the rate of participating interest…" (TPDC).[43]

The oil sector regime in Uganda was previously governed by the Petroleum Exploration and Production Act of 1985 which was later revised in 2000, the Petroleum Regulations of 1993, the Uganda Mining Act 2003, and others related to environment, wildlife and water. More recently, its parliament proposed a fiscal structure that follows the PSA model.

Oil Operations are now governed by the Income Tax (Amendment) Act of 2010 and the National Oil and Gas Policy. Uganda currently has 5 active PSAs with three licensed operators; Tullow Oil, Neptune Petroleum and Dominion. Its PSA framework allows the government totax capital gains taking into consideration the first time when the agreement was signed. Uganda's PSA model has been criticized by many stakeholders - experts, community and civil society groups at large. These criticisms are leveled on grounds that:

- Planned transactions were made before production (or even development, in Heritage's case) commenced. [44]This has created a policy and legal conundrum in which conflict has ensued between IOCs and the government. This is because "companies began realizing very large profits before the government has began to receive taxes or royalties from assets."[45]

- During the negotiation stage, companies took hard-line positions which enabled them to circumvent the loopholes in order to increase their benefits at the expense of that of the government and allowed them to manipulate avenues encouraging tax avoidance (RWI 2010, Moors).

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[42] A second factor is related to the lengthy history of unsuccessful exploration in which no known commercial were made until this 2012 (Ibid)

[43] For a more detailed summary of Tanzania's Model PSA, see TPDC's webpage at http://www.tpdc-tz.com/tpdc/legal_fiscal.php

[44] Amaoko-Tuffour & Owusu-Ayim 2010. 'Ghana's petroleum industry: The Prospects and Potential impediments towards good governance standards, in *Ghana Policy Journal*, Vol 4.

[45] Ibid

- ◘ Stabilization clause which is underpinned in the PSA limits the scope of state's ability to employ new taxation sub-regimes for licensing sales to IOCs or investors in latter transactions. This only works to the disadvantage of the host governments

- ◘ Uganda's PSAs provide no clause to cater for price fluctuations which commonly beset the volatile oil sector markets.

The Rwandan government is also set to make Vanoil Energy Ltd of Canada a signatory to its PSA system which will govern the first most recent exploration program that is well underway. It is projected that the company will use its own funds to prospect for oil and will then share the proceeds with the government on predetermined rates (Tasamba 2012, 1).

In Burundi, despite the lack of a dynamic oil sector, proposed activities in the oil sector which are set to begin soon will be governed by the Presidential decree No. 110/314 of 2007.

The South Sudan is a unique case since it is the newest state in the region. It is also confronting a myriad of challenges as a post- conflict state as it embarks on a continuous road to state building and nation building. Additional challenges include:

- ◘ First and foremost, due to limited exposure, the state lacks experience and full capacity relevant for managing the governance of PSAs.[46]
- ◘ Since the country gained independence from northern Sudan, two major challenges stand in the way of effecting PSAs – in one case, the states are involved in a dispute over transit fees and in another over trans-boundary management of some oil rich regions.

For a summary of the features of PSA systems of each country, see Table 4, which is titled "Distinctive Features of Production Sharing Agreements (PSAs) in East Africa".

[46] Shankleman, J. 2011. "Oil and State-building in South Sudan, New country, old industry ', p.9

Table 4: Distinctive Features of Production Sharing Agreements (PSAs) in East Africa.

	Regulator, Regulation	Licensing features	Government Take		Stabilization Clause	Capital Gains Tax[47]	Government Control	Identified Sector Challenges
Kenya	Ministry of Energy	High government take Flexible model	-One of the highest in Africa -Flexible approach		-	NONE 0% Suspended in Kenya in 1985	High	Outdated legal regime
Uganda	Ministry of Energy & Mineral Development	-Govt share revenue – 70% IOC -30% -Profit range 20-30%[48] -Confidentiality Clauses - Signature bonuses	82%		YES	YES 30%	Low- Confidentiality Clause	Numerous timing and designing issues are hampering accountability and impacting country revenue benefits stream
Tanzania	TPDC Tanzania Petroleum Development Corporation	Flexible approach No signature bonuses There is no ring-fencing	74%		YES	YES 20%	Modest	Enforcement problems
Rwanda	Ministry of Public Works, Energy and Water	-Costs of production shared - Company meets own costs - Reimbursed by government	-		-	YES ?%	High	Small upstream sector Comparatively less dynamic
Burundi	Ministry of Industry and Trade	-	-		-		-	Small upstream sector Comparatively less dynamic
South Sudan		-	-		-	-	High	-Legacies and modalities[49] of the

[47] PWYP Tanzania has recently echoed that the country faces challenges in securing tax gains from IOCs participating in the industry. They argue that it is one thing to have the provision in the PSA model and it is another to enforce it. the latter remains a big challenge for EA countries.

[48] AFIEGO, 2009 "Report on promoting contract transparency in Uganda's oil sector", p. 7

[49] See Shankleman, J. 2011 Oil and State building in South Sudan

								Comprehensive Peace Agreement -Lack of exposure -NPC failure

- No available data
Data compiled by the author from Governmental and non-governmental data sources.

Policy implementation

Because most of the countries are still developing their petroleum bills Uganda is the most is comparatively the most advanced in terms of moving forwards with implementing major provisions in its national oil and gas policy. Uganda again serves an appropriate illustration of how nascent oil owning states work around implementing policies in the sector. There is no doubt that the GoU has made some efforts at implementing the National Oil and Gas Policy, NOGP, albeit with some inconsistencies that would characterize any developing economy. It is evident that there is some platform that is enabling the implementation of a new legal, regulatory and institutional framework, with regards to capacity building and national participation. PEPD (2011) has identified some specific instruments and tools through which the policy is being implemented are:

♦Updating the legislation for resource and revenue management
♦Preparation for the development of some of the discovered fields before commencement of production
♦Exploration appraisal programs that are ongoing to further determine the resource base in the country
♦A multi-institutional government environment monitoring team is in place to ensure environment and bio-diversity protection
♦The government commissioned a study on local content to establish opportunities, challenges and strategies to enhance national participation in the sector
♦A communication strategy for the oil and gas sector as a tool for enhancing dialogue with other stakeholders
♦Supporting institutions that offer specialized training in petroleum related disciplines

Gaps in State Capacity which Implementation Good Policy

There are also immense challenges that are currently exhibited in country specific and regional policy for oil sector governance.

Transparency

This study found that transparency is one of the greatest concerns for stakeholders representing non-state and non-corporate constituencies. The key concern is that many deals, for example, in Uganda and Rwanda are shrouded in secrecy, as one informant noted. The public is at a distance with no knowledge of what these dealings encompass. This is linked to the fact that PSAs have inbuilt Confidentiality Clauses which shields the dealings from public and parliamentary access and scrutiny.

There is a lot of suspicion because of the Confidentiality Clauses (141-151) which establish that the government and companies are under no obligation to provide data about transactions conducted with MNOCs. Another concern is that the roles for parliament are not outlaid in the draft bills thus a clear indication that oversight will be a big gap.50The third issue concerning transparency is that Minister has no obligation to make public full petroleum agreements under clause 148.51

Limiting public access to information is a hindrance to transparent management in a sector that demands high level of openness. In the current context, the cabinet also has too much power and too many roles, local governments are weak; parliament is overshadowed and by-passed as a spectator; and CSOs have been somewhat ignored There is a clear indication that even existing Constitutional safeguards (such as Article 244) need to be actively and publicly introduced and to the policy platforms to provides for an active role for parliament and Ugandans in general.

Furthermore these fears are fortified by the fact that Uganda[52], Tanzania, South Sudan are all yet to domesticate some of the initiatives that serve as instruments for enhancing transparent and best practices in sensitive sectors such as the oil industry. These initiatives are the: IMFs Guide on Resource Revenue Transparency, The Natural Resource Charter, Extractive Industry Transparency Initiative, and The Citizen's Checklist.

With the exception of Tanzania and South Sudan, the states tend to rely on the 'nascent industry' argument claiming that the fundamentals of nurturing and building institutions and infusing resources have to precede entry and commitment into such regimes.

Despite the fact that Kenya has discovered traces of active systems oil and gas, dominant discourse in both political and policy circles have alienated any kind of debates regarding EITI commitments. In Uganda, these discussions are common and mostly so, only driven by pressure national and international civil society organizations (CSOs).

Transparent reporting of receipts and revenues that accrue from transactions with corporations remains to a tall order and a domain that many states (and corporate) elites would prefer to avoid. Secondly, since EITI like many other instruments is organized around the principle of voluntarism, acceptance for membership or compliance is not guaranteed by participating states, and especially so in the weakly governed states. A closer inspection of the EAC states gives indications to solidify these arguments.

Findings in this study and discussions with number governmental and non-governmental officials give indications that states are generally ambivalent with regards to committing to such standards and obligations. Despite the varied scope of regime acceptance mechanisms, experiences, and attempts, the general feeling is that of an "out of bounds approach"

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[50] Global Witness 2012

[51] Ibid

[52] a Ugandan official whom I interviewed reiterated that Uganda is still a new oil nation and that the path to join EITI is 'processed-based" and as such no one should rush the country into such commitments. Civil society organizations on the other hand demand a much quicker adoption of EITI and are aggressively clamoring for Uganda to operationalize EITI principles arguing that "it is a tool for promoting transparency and accountability and educating Ugandan's about the relevance of contract transparency.

Table 5: State Compliance and Participation in Regional and Global Transparency Initiatives

COUNTRY	COMPLIANT EITI	COMPLIANT PWYP	PARTICIPANT KPCS	PARTICIPANT APRM -Africa	Crucial Arenas Requiring Transparency
Kenya	Not a member yet, minimal public debate on IETI	No	Member	Member	Exploration and Production contracting and licensing Environmental and social impact assessments Need to endorse or implement EITI
Uganda	Negotiations among stakeholders; State ambivalence	No	Not a member	Member	Exploration and Production contracting and licensing Environmental and social impact assessments Needs to endorse or implement EITI
Tanzania	On the path to membership	Candidate	Not a member	Member	Exploration and Production contracting and licensing Environmental and social impact assessments Needs to implement EITI
Rwanda	Not a member yet; minimal public debate on IETI	No	Not a member	Member	Exploration and Production contracting and licensing
Burundi	Not a member yet, minimal public debate on IETI	No	Not a member	-	-
GoSS	Has pledged to join EITI	No	Not a member	***	Exploration and Production contracting and licensing Environmental and social impact assessments Needs to implement EITI

Data Compiled by the Author
*Candidate – implementing EITI, not meeting all the requirements
*Compliant- meeting all the requirements
*** Was a member when South and North Sudan were United

Accountability and Rule of Law

Lessons from Uganda are instructive about how well specific states need to develop mechanisms and structures for enabling legitimate, credible, and inclusive participation of all branches of government in the preparations, drafting, and execution of sector legislations. The events which occurred in the beginning of 2012 when the embattled presidency [and the executive] was taken to task for by-passing the parliament in the signing of PSAs in Uganda should hopefully not set a bad precedent for future contracts within and without Uganda.

It is evident that some agreements which were recently signed were done without parliamentary consultation, clarification, and approval and as such lack sufficient standards of accountability. Equally, concerns have been raised regarding the level of secrecy that surrounds the manner in which these agreements and dealings have been conducted.

The second challenge is with the Bill itself. Many opponents of the Bill argue that it is creates weak incentives for promoting horizontal accountability. It is a concern that despite the fact that the Bill grants the Petroleum Authority independent powers, the Bill again creates a provision which clearly encourages these same powers to be usurped by the Ministry. This is because the latter has both "appointing and instructive powers" over the former.[53]

This problem is illustrative of a lack of stable, strong and committed policy coalition within the government. Due to weak vertical and horizontal accountability mechanisms, it is difficult to develop a strong coalition that is committed to the advancement of successful policy planning and implementation in these countries as a whole.This is more so in the governance of programs for regulating and managing agreements for licensing, taxation and benefit sharing which have all been marred by controversies about corruption, disrespect for rule of law, and secrecy.

The executive arm should work in concert with the legislature and complement rather than compete with or isolate it. The improvisation of efficient and stringent legislation can only occur if the state lends credence to the rule of law rather than by pass or ignore it.

Efficiency of Fiscal Regimes

An important indicator of state capacity is the systemic orientation of the legal and institutional framework in which procedures for establishing and nurturing a country's nascent oil and gas sector are embedded. Besides, it is also a significant element of sector management. This is critical with regards to the fact that the quality of system's infrastructure will serve to define the difference between success and failure, sustainability and unsustainability, and credibility and unreliability of specific instruments in near and future term.

[53] Ibid, 6

Evidently, the findings of this study found that the mosaic of specific country instruments present a relatively weak and inefficient system. This has important implications for resource and revenue management.

By design and default, under such weak frameworks, states are bound to lose large amounts of revenue due to lack of information and their role in creating weak regimes. This creates avenues in which foreign companies circumvent or exploit opportunities which allow them to gain supa-profits at the expense of host countries.

This is the case in Uganda where there is an impasse over modalities around which capital gains tax CGT should be applied. This came as a result of “unanticipated” outcomes of farmdown transactions made between the government of Uganda and Heritage. Due to a weak legal regime stipulations that guided the signing of Signature bonus components within the Production Sharing Agreements (PSAs), the government lost vast amounts of revenues when subsequent transactions were made (inform of sale transfers). The government poorly earmarked the value of transactions and signed the contracts without anticipating such outcomes.

The reverse is also true. When governments access vast windfall revenue from such transactions, the lack of an efficient legal and institutional framework exacerbates corruption and misuse of this revenue.

Democracy

Many studies modeled on the RST have pointed to regime stability as one of the significant outcomes of increased windfall from the oil sector. With this revenue, the state limits participation in virtually all sectors of the polity – political, economic, social and this is tied to institutionalization of autocratic systems – the regime stabilizer. Most oil states as we know are bastions of kleptocracy and autocracy. While most states East Africa are not indicative of this tendency yet, the level of tensions between government and civil society are indications that the two are definitely at odds.

Intra-government democracy has also been compromised in Uganda with the recent by-passing of parliament in the signing of PSAs. This partly explains why a participatory system which can nurture a process for effective pressure towards state accountability and one which can mobilize collective agency to demand for transparency from the state is lacking in Uganda.

Hyper-centralization of power by the executive in the current process also derails the efforts to grant parliament effective oversight roles. To the surprise of many, the president overstepped the Parliament when signing the historic PSAs – which militates against the principle of parliamentary supremacy and checks and balances. Calls have intensified for the President to halt any further signing of agreements until the bills are discussed and implemented.

Another study notes that “a combination of mutual distrust and a lack of understanding or awareness of ways to work together [between civil society and parliaments] have left little room for coordination or cooperation between civil society and legislators”. Similarly, in an interview with a representative who works in media advocacy, she expressed an interesting view that that one of significant barriers to CSO participation has been because” the civil society does not make effective use of the media”. She argued, “..they do not work with the media and neither do they effectively seek assistance from us”.

Civil society has a role to play in resource governance. Its participation is not just limited to advocacy. A study by World Vision (2007:20) highlights some its activist strength beyond advocacy. Such include acting as a:

- ♦ Technocrat: providing technical input to deepen state thinking

- Proxy advocate: advocating on behalf of communities and organizations
- Implementer: working with state as an implementing partner
- Contractor: providing consultancy /contractual services to the state

Regulatory Capacity

A prominent discussion across the conference, advocacy, and research platforms is that the level of state capacity is not sufficient for developing efficient regulatory regimes for revenue extraction, management, macro-economy for providing effective environmental safeguards. This capacity is emblematic in what the state is doing vis a vis the current context of already buoyant oil industry. Secondly, it can also be assessed vis a vis the current legislative framework pending enactment. A survey of studies done on the recent policies indicate that fines levied on companies for violation provisions are too insufficient to act as a successful deterrent, (GW 2012, 2) and that there are no provisions for the 'pre-qualification of companies on environmental and social grounds, (GW, 2). Conclusions are mixed.[54] With respect to a regulatory regime for revenue management, the outstanding challenge is that the Finance Bill is being prepared in isolation to and with no links to the Upstream and Downstream Bills. There is a clear indication from most stakeholders that this was not well-advised and will lead to policy incoherency between among operative and regulative systems.

Technical Capacity

Good governance continues to be a major challenge for resource-rich states. This problem is compounded by the further by the lack of the requisite capacity for states to strategize, plan, and inter-link programs and initiate sound policy. Uganda's current legislative and policy arena provides relevant illustrations for evaluating the challenges such states face. The current Petroleum Bill is a starting point for this analysis. In the context of the state's role, the Bill outlines state participation in: 1). Petroleum activities; 2). Provision of goods and services; 3). Training and employment of workforce; 4). Technology transfer. These are pronouncements and implementation is the broader and larger task.

It is evident that the state faces the challenge of executing optimum policy due to the lack of adequate expertise, inadequacy of contract institutions, and insufficient mechanisms for operability. At the moment the state lacks the critical mass for ensuring effectiveness and efficient management in the sector and the reality is that it is difficult to build it to effectively cater for the demands of the very buoyant sector (RWI 2010).

Traps that Hinder Policy Implementation: Path-Dependency and Initial Conditions.

There are immense challenges that are currently exhibited in Uganda's oil sector. These can be examined more comprehensively via a comparative barometer which gives a broad comparison of Uganda's experience against that of Norway. Secondly, comparison also provides room for identifying and isolating the varied characteristics of initial conditions and prerequisites that define policy outcomes between Uganda and Norway. The next two tabular presentations are summaries of some of the key differences between the two country experiences.

[54] In a different tone Radan et al (2011) highlight some positive steps in the current draft bill, which compared to previous Bill. The study notes that steps have been taken "to ensure penalties have a bite" and thus Section 132 now "imposes strict liability on licensees for pollution damage". Previously "licensee were only responsible for pollution damage resulting from unlicensed activities"

Table 6 : Comparing effects of initial conditions on sector development: Norway and Uganda

	Norway	Uganda
Democracy	♦The country had stable, sustainable, and sector-supportive democracy prior to and after the discovery of oil. ♦It had strong parties, civil society, and transparent institutions that respected freedoms and rights of the citizens	♦Is a typical semi-liberal state, undergoing slow but progress transition to democracy after a period of civil war. ♦Has a weak party system with a lengthy history of no-party system [55]and diverse but fragmented civil society.
Capacity	Norway started enjoying oil wealth when: ♦Economic capital was in place to support some of the efforts. ♦Political and social capital were also products of a culture conducive for implementing a progressive economic program. ♦Civic culture, is consensus-oriented and anchored on homogenous social systems	Uganda is a low income country with low: ♦Economic capital - Oil has been discovered at a time when economic growth is not matched by overall economic development ♦Political and social capital: the current political atmosphere is typified by divisive rhetoric where cleavages [regional, ethnic, & class] stand out to challenge state policies.
Ownership structures	♦In Norway, state ownership was not sudden but was a priority and key aspect of initial programs. ♦State ownership of stakes in the sector was set at 50% and later rose to 65%	♦In Uganda, state ownership of stakes in the sector is currently at 35% which is not an appropriate tag for which to position for stiffer bargaining with MNOCs ♦ Rushed agreements and binding clauses will also serve to hinder progress
Technology	♦Norway invested in technology right from the start, as it was well aware of its weak position vis a vis MNOcs overwhelming capacity ♦They also invested in environmental-friendly technologies and policy systems were created with institutional and legal safeguards.	♦ Uganda as a country has weak technological capacity. ♦ It is a developing country which in which most upstream activities are dominated by and will be for a long time by mega-MNOCs.
Environmentalism	♦Norway has a long history of environmental movements so is better placed to challenge inimical policies that threaten environment. ♦The movements and other elements of civil society are well organized, fully mobilized, and confident. ♦They acted as “health and safety delegates” and kept institutions on watch.[56]	♦Uganda has a history of weak civil society, stemming from legacy of civil conflict to the institutionalization of coercive police state system. ♦ Environmental movements & CSOs in general have a short history of organization and mobilization, are diverse but fragmented.
Pillars of good	♦Norway developed functional and administrative	♦ In Uganda, an anticipated bottleneck to efficient

[55] No party system was disbanded in 2006
[56] Heigle, 2012

Management	specialization systems right from the start. ♦The Authority and the Oil Company were vested with separate powers ♦ Policy making and administration were functions organized as distinctively separate	governance will be the duplication of efforts and hyper centralization. ♦ The Minister has been accorded way too many functions and too many powers.
Economic development	♦ Norway's path started in 1905 and oil was discovered in 1969. ♦By the time the extraction of oil started in the early 1970s it had a per capita GDP of over US$10,000 (PPP).[57]	♦Uganda's path has been tumultuous considering it was a colony until 1962 and then civil conflict ensued in the 80s which hampered development. ♦Unlike Norway, Uganda currently has $ 1000 (PPP).[58]
Entitlements systems	♦Norway is one of the world's know socialist- progressive states with welfare systems. ♦It is fully and sustainably supported by the state in consonant with good macro-economic management	♦Uganda is on the other hand been operating in austerity measures prompted by Washington Consensus. ♦The state had to, among other things; withdraw from provision of basic social services.
Dependency	♦ Norway was not a dependent economy, though it also faced its own challenges.	♦Development and witnessed growth rates are highly donor-dependent and donor-determined
Investment regime	♦Norway's success is attributed to its prudent and progressive investment culture which directed earnings and windfall to a special Petroleum Fund	♦It is uncertain whether Uganda should immediately set up a Fund since there are other major economic challenges that require state financing.[59] It is a dilemma.

(Developed by the Author)

[57] Bategeka et al 2009

[58] Ibid

[59] The advice of economic historian, Dr. Heigle is that it should do exactly the opposite – do not set the Fund immediately, it is impractical to talk of investible surplus if there are serious problems in the country that need to be improved and/or financed. It better to improve these sectors and/or to keep the money in financial markets.

Table 7: Comparing Prerequisites and Preconditions for sector development: Norway and Uganda

Contract institutions	Norway has developed transparent models for transactions in which concession laws are open	Uganda's current working agreements are conducted in secrecy.
Capacity - *Administrative*	Norway established 3 inter-connected but independent institutions to run the oil sector – The Petroleum directorate – deals with safety issues and	Uganda is faced with the dilemma on whether NOC is of necessity, considering it was a factor to Norway's success.
Capacity - *Regulative Cultural*	Norway -Is a consensus oriented social system and thus the state has been shielded from intense social pressures and demands. -Escaped the problems linked to institutionalized coercive apparatus -Accepted workers trade unions which reduced confrontation	Uganda -Is currently polarized along class, regional, and ethnic lines. -Military institutions have a strong presence in regulating social order. -Protests organizing for democratic change are on the increase
Core elites *Capacity - Bureaucracy*	Norway's institutions which govern the oil sector is managed by professional bureaucracy - Civil servants who are independent and have an "attitude" of commitment.	Uganda's bureaucrats have fallen occasionally to traps of patronage – They are also appointed by the head of state.
Coalitions *Autonomy*	-Norway has autonomous but embedded systems -Had an "owner-operator" in the oil sector framework[60] -Was able to complete protect some parts of the sector from foreign control	-Uganda needs to reduce monopoly of MNOCs as it gradually advances into commercial production - Will need to encourage the participation of many competitors and local companies and contractors.
Capacity – *Extractive*	-Norway has a strategic revenue extraction system of handling and managing rents -The parliament promulgated the Production and Investment Seal – which target oil production to a certain level. - pliable tax regime –in the sense that – has a model for increasing taxes to take off future rents	Unconfirmed reports indicate that oil and revenue extraction are not being handled on an expedited manner because of the need for finances to run the economy. Stabilization clauses are a big barrier.
Capacity - *Technical*	Norway ensured that over time it has gained monopoly of the offshore sector production and management - and by virtue had increased the	Uganda's developmental status .

[60] ibid

	independent competence and capacity of local industry	

(Developed by the Author)

Recommendations: Towards action: Mainstreaming Good Governance in Petro-sector

This section is titled "Towards action: Mainstreaming good governance in EA's nascent petro-sector" and the key aim is to present recommendations and a way forward for emerging oil and gas sector in the region. This section emphasizes that the key elements in process and program mainstreaming are achieved nurturing opportunities for collective capacity building in various domains and supporting legislative instruments for integrating the 3Es (enterprise, equity, and economic development) in the broader sector planning.[61]

The study specifically recommends that:

To enhance transparency*, r*egional individual states can make use of surrogate transparency mechanisms such as EITI-linked Multi-DonorTrust Fund (MDTF) which is an initiative for administering funds and for to providing technical and financial assistance to countries implementing or considering implementing the EITI. The support has further included: 1) making EITI advisers and consultants available to governments to assist in implementing;2) sharing international best practices; 3) and providing grants to governments to help support implementation.[62] Such arrangements can offer incentives for states to prepare well ahead of committing EITI regime obligations while taking advantage of the capacity development from the World Bank. Such programs also facilitate information access for both governments and non-governmental institutions.

To promote accountability Open access to the agreements and contract receipts for which PSCs are negotiated and signed should not be privy to a few officials and elites but rather be public to enable scrutiny, debates, informed engagement of all stakeholders. This should provide better data and information on funds and profits - upon which the public can gauge the scope of national benefits and corporate costs, guide licensing processes in the near and future term, and provide guard through pressure for both parties to follow principles that encourage sound licensing. On a related note, urgent steps should be taken (in each state are yet to and those that are still drafting their petroleum legislations) to ensure that parliament's role as an oversight institutions.

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[61] A report by the World Bank (2010, 1) recommends that crucial components of the extractive sectors should encompass:

i) the mineral legislation is sufficiently attractive to induce investment in the sector;
ii) the regulatory framework is clear and comprehensive and there is adequate capacity for monitoring and enforcement;
iii) (iii) collection of taxes and royalties is done in a transparent and efficient manner;
iv) governments are able and willing to manage and allocate fiscal revenues efficiently; and
v) the mineral sector is contributing to the sustainable socio-economic development of the country, whether as an engine of growth or a generator of large amounts of fiscal revenues.

[62] World Bank, 2012

To improve extractive capacity states should work out legal and institutional modalities that are not only open but also creatively administered by bodies that are independent and capable enough not too absorb windfall revenues too soon. Similarly, a working consortium for macro-economic management team of experts from should be established among state and non-state institutions to assist in the planning and evaluation of oil-accrued investment. This should minimize loss of accrued and potential revenues which are targeted towards wasteful consumption and on unsustainable entitlements systems. This should make it more manageable for states to live on their promise to model the "oil-linked" investment regime on principles of enterprise, equity, and economic development.

To enhance efficiency of productivity in the upstream sector for state-affiliated and non-affiliate petroleum companies, timing and designing of institutions should take be linked to principles which encourage a prudently paced process of resource extraction. Policymakers should take cognizance of the fact that it is in the interest of both if sector development goals encompass and deliberately encourage a larger scope of local content. Smaller and progressively larger partnerships between local and foreign companies improve value addition through vis a vis the creation of backward and forward business linkages in the petroleum value chain. This should be complemented with intensive human capacity building programs which target knowledge and skills improvements for relevant host country expertise which is in high demand.

To improve regulatory capacity the East African states should first seek expertise and guidance from policy specialists in successful economies where the PSC model is applied and place them in the Ministry of Energy offices where they can also meet host country policy makers for knowledge and information sharing and exchange. Taxation and fiscal regimes tend to encompass very complex and numerous legal requirements. Thus to ensure that these policy tools become effective, efforts should be directed towards proper legislation and stronger policy instruments which are enforceable, clear, simple, adaptive, beneficial to both partners, cost-sensitive, and based on a stable and predictable legal and regulatory framework. For example, both disclosure statements and Stabilization Clauses should be modeled in such a way that they protect both investor rights and national interest of the host country.

To protect environmental safeguards states should avoid setting precedent for bad law. In other words, implementation and enforcement should be key pillars of environmental protection. Companies involved in upstream, midstream, and downstream sectors should all be subjected to rigorous standards before being granted licenses or having their licenses renewed. They should also be made aware of the stiffer sanctions and penalties involved if environmental laws are broken. One legal expert has cautioned that states should be encouraged to embark on environmental law sooner than later; meaning that environmental legislations should precede all the other legislations as this enhances chances for better protection and regard for environmental law. CSR systems should utilize participatory tools in environmental impact assessments (EIAs), disaster management, and contingency planning, so that communities and non-governmental stakeholders are not just passive but are active sector stakeholders.

To improve investment capacity states must opt for a funding mechanism which is based on pragmatic principles rather than expediency. Experts form successful oil-endowed countries such as Norway caution new oil states in the region not to rush to transfer windfall revenues or profits to an Oil Fund program. The idea is that it is more practical to channel this money into the various cash-strapped and weakly funded socio-economic sectors such as education, transport, health and agriculture. This is because each of these sectors is a gateway to a development pathway of any country thus a policy strategy which seeks to improve and support them will allow prospects in the long-term economic development. This is for a fact what Norway did. It did not rush to invest the surplus; it chose to support these sectors first.

Conclusions

East Africa has undoubtedly achieved a new status in the current global geo-political and geo-economic systems due to the recent discoveries and a simultaneous record of successful prospectivity in the region. The recent growth rates will simultaneously re-structure the regional and inter-regional relations in a profound way. These developments however, also mean that East African states must have the commitment, capability and capacity to exploit and consume its newly found wealth in a prudent and progressive manner. It is evident that windfall revenue from the petroleum sector rarely provides the right incentives for proper macro-management or for socio-political progress. It is also unrealistic to expect this new oil find to address regional problems of poverty and under development in the immediate period.

The project highlighted the well known conundrum of the resource curse which was conceptualized vis a vis the challenges for rentier states. It situated the region's experience and also used Uganda as a strong case to support the claims for challenging governance issues that beset new oil states. This was done by examining the basic features that define the current system of policy infrastructure of these countries. An objective analysis must acknowledge that things are neither on the right direction nor in the wrong path. There are evident challenges and some progress in certain areas. The most recent scandals have already exposed elements of state weaknesses and capacity, though this should not be seen as a situation of profound paralysis for two reasons.

First, there is some effort, albeit modest, on the part of these states to self correct and learn from these weaknesses. Secondly, other stakeholders are actively and relentlessly seeking space in the management of the sector and in many diverse ways. This is serving as a system for overtly or covert operations which because of their pressure fronting mechanisms are encouraging some changes in the sector. Third, the findings indicate that nascent rentier economies are challenged but can modestly cushion themselves from the gross failures that fully fledged rentier states encounter if planning, learning, and institutionalization are taken as concrete priorities and vehicles for sustained implementation. If the region takes lessons from both successful and failed oil-rich states, they should be able to set the medium on which they can learn and isolate what elements of petroleum policy work best, the specific conditions under which they work best, and how they can be organized and enforced to ensure that promotion and protection of national interest, at best.

These tools can spur, support, and sustain critical mainstreaming processes needed to enhance the capacity of the state and no-state actors in the sector. Successful resource endowed states did not do anything out of the extraordinary. It was a matter of commitment on the part of elites from different persuasions and ardent efforts at intensive capacity building of both institutions and human resources. The wise counsel of the state further complemented these efforts. These are elements that can be borrowed, learned, infused, nurtured, and institutionalized if and when leaders are ready and committed and the society is ready to support the state in achieving these goals. Pessimism and imprudent planning are the worst enemies yet.

East Africans at large should be active in engaging the state, vigilant in sustaining open and accountable systems at whatever level of policy engagement, and confident about the promises of these resources. One of the key elements of the project was also to highlight the need for a shift in the polemics of the resource curse. While it is true that the absence of good governance reinforces state isolation and weakness, it is equally true that the state's policy infrastructure can be reformed and revitalized to work towards any progressive agenda. The first step is for researchers and policymakers to delve into specific nuances which can flesh out the critical prosaic elements of state (in)capacity and how this impacts policy systems so that proper tools can be channeled to improve, nurture, and create this missing capacity.

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Appendices: Useful Terms for Analysis of Petroleum Fiscal Regimes

Capital Gains Tax
"This refers to a type of tax levied on the gains or profit made from the disposal of assets from one company to another or from one individual to another" (Tax Justice Network 2012)

Fiscal regimes
"The fiscal instruments and the contractual framework which defines a host country's share of wealth accruing from petroleum production through a host of instruments – bonuses, royalties, profit oil, takes and government participating interest" (Tuffuor and Ayim 2010)

Government take
"Is the total share of oil produced that the government takes in form of royalties, share of production in form of profit, oil surface rentals, corporation tax among others" (Bindermann 1999)

Kimberley Process Certification Scheme (KPCS)
' Is a joint government, industry and civil society initiative to stem trade systems for and flow of conflict diamonds". (Global Witness 2012). It is also a type of an extractive industry initiative for promoting transparency

National /Local content
'The gainful and complete participation of citizens and the private secor in an economic activity" (Paul, quoted in Mwakali and Byaruhanga 2011)

Petroleum value chain
Petroleum value chain comprises of the three sectors of oil exploration and production which are the upstream, midstream, and downstream sectors

State participation
'The maximum equity share the state can take, provided options for the host government or the National oil company to participate in petroleum activities" (Bindenman 1999). These provisions are laid out in petroleum legislations

Stabilization Clause
"Is a risk management device used in investment contracts to shield investors from changes on taxation policies and political chaos" (Kasemire 2012)

Appendices: Questionnaire

These questions were presented or used to inquire from interviewees (informants and non-informants) to gather their perceptions about the current capacity of the state in managing resources and revenues and the different strategies being utilized to mainstream principles of adaptability, efficiency and empowerment as components of sector management. They include:

1. **Capacity building:** What are some of the deliberate measures taken by the government in initiating and implementing capacity-building programs for the implementation of oil policy?

2. **Revenue management**: What are your views regarding the scope of progress of implementation of policy for prudent management of oil revenues?

3. **Dependency on oil revenues**: What policy measures will best place the country in a good position to limit future dependency on oil revenues?

4. **Operative systems**: What lessons can EAC counties learn from Norway (and other successful examples)? Which aspects of the Norwegian model should they emulate? Why?

5. **Transparency:** What are some of the roles can civil society play in enhancing good governance of the oil sector? What is your opinion regarding the usefulness of your country's participation or endorsement of transparency initiatives such as EITI? Is any progress being made towards these processes?

7**. Local content**: What are some of legal and policy mechanisms put in place to target the proactive engagement of local institutions in the oil industry?

Data Collection Summary - A descriptive summary of sampled Interviewees.[63]

	Institution	Type of Interview	Number of interviewees	Why sampled
Government	1.Ministry - Petroleum Commissioner (Licensing) 2.Ministry- of Energy 3.Parliament-affiliated i. Environnent, Energy ii. MP's Assistants 4. EAC Representative	1. Formal Interview 2. Semi-structured 3. Semi-structured i. Formal ii. Informal 4.Formal Interview	1 2 1 2 1	Key informant "Proxy" informants
Civil Society	. Representatives of Networks 1. Coalition - oil and gas CSOs 2. Coalition - Lawyers 3. Coalition – Human Rights Representatives of Organizations 1. Religious-ecological 2. Environmental 3. Human Rights 4. Media Representatives of International Watchdogs	 1.Semi-structured 2. Semi-structured 3. Semi-structured 1.Semi-structured 2. Semi-structured 3. Semi-structured 4. Semi-structured Informal discussion	 2 1 1 1 1 1 2 2	 Key informants Key informant
Private Sector	Corporate international oil company (IOC). 1. Rep' of IOC1 2. Rep' of IOC2 Small business	 1. Structured questionnaire 2. Informal interview	 1 1	 Key informant

[63] While the aim of conducting interviews was to gather as much information from as many respondents as possible, the key aim was also to gather crucial information about the current issues dominating the debates, narratives, and forums which converge around oil sector management. Thus very specific informants were identified through convenient and snowball sampling. They were all conducted as face to face interviews – formally and informally, with the exception of the Representative of IOC1.

	1. Transport 2. Research consultants 3. Food industry	1.Informal interview 2.Informal interview 3.Informal interview	2 2 2	Elite and citizens' opinions and perceptions
Citizens	1.Nationals residing in East Africa 2. Nationals residing outside	1.Informal discussions 2.Informal discussions (Tanzanians, Kenyans, Rwandese, Ugandans)	6 3	Elite and citizens' opinions and perceptions

Data Collection Summary

A list of Data Collection Activities: Participation in Forums, Panels, and Conferences

Additional data was gathered through participation, observation, and attendance in Forums and Panels organized to engage various stakeholders and have them discuss and debate petroleum sector management issues and policy legislations. As an:

1. Invitee and Panelist at the 2012 Conference on "*Uganda's Oil Experience: Current Status and Lessons from Norway"*, organized by the Southern and Eastern African Trade Information and Negotiations Institute (SEATINI) and the Civil Society Coalition on Oil (CSCO), held on February 23, 2012 at the Grand Imperial Hotel, Kampala
2. Invitee and Panelist, at the 2012 Forum on "*Supporting Parliamentary Oversight on Proposed Petroleum Bills"* - organized by Uganda's Parliamentary Forum on Climatic Change (PFCC) and National Environmental Committee of Uganda's Parliament, held on March 6, 2012 at Hotel Africana, Kampala Uganda.
3. Presenter, *"Research Findings on Petroleum Sector Governance in Uganda",* at the ARRF Sabbatical Policy Research Forum. This was a policy bi-forum on oil and regional integration. This paper discussed was a discussion of field research data gathered from Uganda and an analysis of the dominant narratives and policy systems that define Uganda's legislative developments for petroleum exploration and production. These were the Regulation system narratives, Role-division narratives, Rights narratives and Resource management narratives. Participants also engaged in analyzing major themes and provided insights for making a more comprehensive analysis of the region and the sector. This was held at the ARRF Secretariat on April 5, 2012.