

# Governing Ghana's Oil Resources

## Oil, Policy, Legislation, Human Rights ...

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# PRESENTATION STRATEGY

- Historical Institutionalism:
  - Overview of Africa's Resources
  - A note on how we have governed them
  - A particular example of how we governed Cocoa and an indication of how we are likely to govern Oil
  - Pointers to Redflags we should note in our governance of Oil.
  - A Conclusion

# RESOURCE-FULL AFRICA!

Africa is the richest continent in the world:

- Human Resources-very tough and hardy people.
- Land Resources-3 times the size of the US.
- Food Resources-you can live without working the soil.
- Medicine Resources-plant medicines, etc.
- Water resources-so much we use it to produce electricity.
- Mineral Resources-Platinum, Gold, Diamond, Bauxite, etc.
- Forest and Wildlife Resources.
- Time Resources-hours and hours on weddings, outdoorings, funerals, drinking, chatting, etc.
- Spiritual Resources-capacity to think, act, and feel transcendently.
- Cultural Resources.
- ETC ETC ETC

# WHAT HAVE WE DONE WITH THESE RESOURCES?

- We started by allowing our human and material resources to be taken away in the context of the Slave Trade and the Colonial Enterprise.
- Then we allowed our cultural, spiritual and knowledge resources to be pillaged, adulterated or destroyed.
- Then we started taking huge loans to develop and buy new knowledge resources to harness our natural resources.
- Now debt-ridden, we are seeking foreign investors to help us harness our resources.

# ***NATURAL RESOURCES***



# DEPLETED OIL FIELD



# OIL IS A GOVERNANCE ISSUE

- Governance is the process by which we:
  - Generate resources (from power to food);
  - Distribute resources; and
  - Resolve conflicts related to the generation and distribution of resources.
- What we are all taking about is how we will:
  - Generate/Extract the oil resources;
  - Distribute them; and
  - Manage conflicts arising from the generation and distribution of the resources.
- In short, Oil is a governance issue.
- And the business of governments is to govern.
- How have our governments governed critical resources in the past?
- And how are they likely to govern oil and gas resources?

# HISTORICAL INSTITUTIONALISM

- “History is beautiful and history matters... ‘It matters not just because we can learn from the past, but because the present and the future are connected to the past by the continuity of a society’s institutions. Today’s and tomorrow’s choices are shaped by the past. And the past can only be made intelligible as a story of institutional evolution”. ..

- Many issues that present themselves in Ghana today as simple issues of institutional dysfunction that need to be reformed are not that simple. They are linked to genealogies and trajectories that are heavily embedded in historical institutional development from the pre-colonial through the colonial to the post-colonial and post-modern eras. They are products of intense contestations between the forces of colonialism (past and present) and those of the colonized, and their respective agents, allies and sympathizers. The outcomes of these contestations in the colonial era were basically crystallized as political, economic and social institutional forms during the transfer of power to a Ghanaian government at independence. ..”

# THE “MISGOVERNANCE” OF COCOA

- In 1957, at independence, Ghana grew one third of the world’s Cocoa.
- Cocoa made up two thirds of Ghana’s exports.
- We needed to adopt a strategy for governing this resource for optimal and enduring results.
- We did not; rather our Cocoa governance strategy distorted our economy and society.

- Hundreds of thousands of workers migrated from Northern Ghana, Burkina Faso and Niger to work as sharecroppers for Ghanaians who owned land in the rich cocoa belt (Asante, 1963).
  - The colonial government did nothing to deal with this major migration issue; intra and inter-state.
- To facilitate the European cocoa-buyers' shipments of cocoa to Europe and America, it built railroads from the cocoa-growing area to the sea, and a few port amenities.
  - It built almost no feeder roads to enable the farmers bring the crops to collection points-increasing their costs, reducing their profits and impoverishing them.
- Laws were introduced to protect the property rights of the European buyers of the Cocoa.
  - No laws were introduced to solve the serious disputes that arose under customary law over African farmers' land titles, which exacerbated with the increase in value of Cocoa.

- Instead of providing agricultural credit, the government permitted the large cocoa buying companies and local money lenders to keep the peasants in perpetual debt:
  - Moneylenders Ordinance, etc
- Today:
  - Rural poverty;
  - The dependence on unprocessed cocoa;
  - The nationality issues of some Ghanaian residents;
  - The rural-urban drift;
  - The numerous, costly and unending land disputes and litigation;
  - The sub-optimal food production; etc
  - are all functions of how we governed our Cocoa then.

- There was more mis-governance of Cocoa:
  - By the 1930s, four giants (United Africa Company, G. B. Ollivant, Ltd. CFAO (a Swiss firm) and Cadbury and Fry) had absorbed or driven smaller European competitors out of the Gold Coast Cocoa markets:
    - Their business reached every corner of the cocoa belt-oligopolies;
    - They financed and purchased the cocoa crop at prices they set;
    - They shipped the Cocoa overseas; and
    - They imported and sold manufactured goods to the farmers!
    - This is 4 companies holding the whole Country in Economic Bondage.
- Court-enforced rules of property, contract and criminal law clothed these firms with the power to structure the cocoa growers' limited freedom of choice: to sell to them or not at all.

- Why didn't Ghanaians just ignore cocoa and walk away? They couldn't!
  - Taxation (as in Kenya) were introduced;
  - Forcing African subsistence farmers on pain of imprisonment to work for a pittance on the British-owned gold mines, or as Cocoa farmers or farmhands.
  - Under the English law governing African-non-African relationships, the state marshalled the coercive institutions of modern government: army, police, prisons in this endeavour.
  - The African landlords, often related to the chiefs who allocated the land, emerged as members of a new class:
    - They invested in trade ;
    - They speculated urban real estate;
    - Their children went to schools to learn the administrative skills required for Britain's 'indirect rule'.

Today:

- The over-taxation of the rural poor;
- The over-exploitation of labour;
- The widening gap between the rich and the poor;
- The menace of land guards and agents; all find their roots in the way in which we mis-governed our cocoa resources.
- **The points I am trying to make are these:**
  - **There is no guarantee, and we do not seem to be providing any, that we are not going to mis-govern our oil the way in which we mis-governed Cocoa and Gold.**
  - **Secondly, the mis-governance of a major national resource, does not rest with the sector from whence that resource cometh, but affects all other aspects of our national lives: political, economic, social, etc.**

# RED FLAGS

## OIL, CHAOS AND STRONG GOVERNMENTS

- Oil and gas finds implicate economic distortions and social chaos:
  - Inflation
  - Neglect of non-oil sectors
  - Conflicts
  - Social vices
- You need a strong government to deal with these.
- The post Structural Adjustment state is not strong.
- And the current government must really show some strength if we are to manage these issues

## **OIL, SOPHISTICATION AND STRATEGY**

- We need a sophisticated and strategic leadership to maximize domestic value of the oil find.
- 90% of every dollar in the oil industry is non-oil, support services, etc.
- Only sophisticated and strategic government regulation can reign in those economies.
- And deal with the international pressure that will try to orient the oil economy outwards.
- Aside Nkrumah, Acheampong and the early days of Rawlings, no government has been able to do this.
- The current government is already bowing to pressure in other domains, the outlook is not good.

# OIL INTELLIGENCE

- How much oil is there?
- Who is taking it out?
- From where are they taking it?
- In what quantities?
- In what qualities?
- Only the fisherfolks know the real answers to these questions.
- And some corrupted public officials.
- This is not good enough!

# OIL, GOVERNANCE AND THE RULES OF THE GAME

- We need to get the rules of the game right.
- Especially resource sharing, if we are to avoid chaos.
- This will implicate constitutional and legislative review to better manage VALUE and revenue sharing between:
  - Government and Private Investors
  - The Centre and the De-Centred
  - Private Investors and Communities
  - Government and Traditional Authorities(TAs)
  - Between TAs and their Citizens, etc, etc

## **OIL and CIVIL SOCIETY (CS)**

- Without CS, governance of Oil will fail.
- Banana Republics and international pressure, governments and MNCs-legitimate and illegitimate alike.
- This leads to perverse public policy.
- We need a CS that can act as a counterpoint:
  - Strong
  - Fearless
  - Independent
  - Incorruptible
  - Locally, Nationally and Internationally networked
  - Well resourced-human, technical, financial.

# WHAT SHOULD WE BE DOING?

- Review the oil policy and develop a strategy for getting what we want from the oil and preventing what we must prevent that comes with the discovery of oil.
- Review our laws on oil.
- Look to our essentially timeless constitution for guidance on how to deal with issues regarding oil.

## 1992 CONSTITUTION

- Article 23 on Administrative Officials and Administrative Bodies:
  - Complying with the requirements laid down by law;
  - Acting fairly and reasonably.
- Articles 12-33 on Fundamental Human Rights Provisions and enforcement by the High Court.
- Economic Objectives of the State in the Directive Principles of State Policy in Chapter 6 seek to provide equal opportunity for individual and group private enterprise.
- Article 41 on the duty of the citizen to protect the environment.
- “The State shall take appropriate measures needed to protect and safeguard the national environment for posterity...”-Article 36.
- The National Development Planning Commission shall “make proposals for the protection of the natural and physical environment”. Article 87



## **36 Economic objectives**

- (1) The State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximise the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy.
- (2) The State shall, in particular, take all necessary steps to establish a sound and healthy economy whose underlying principles shall include...
  - (e) the recognition that the most secure democracy is the one that assures the basic necessities of life for its people as a fundamental duty.

- Article 296 on discretionary powers:
  - that discretionary power shall be deemed to imply a duty to be fair and candid;
  - the exercise of the discretionary power shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike;
  - shall be in accordance with due process of law; and
  - where the person or authority is not a Justice or other judicial officer, a requirement to published by constitutional instrument or statutory instrument, Regulations to govern the exercise of the discretionary power.
- Decisions to grant oil drilling licenses, environmental permits and licenses are all governed by article 296.

# CONCLUSION

- The Resource Curse is really nothing but an over-concentration on oil wealth which benefits just a little portion of the upper and middle class in a Country to the exclusion of all others.
- BUT also and more important, it is the neglect and/or the destruction of other sectors due to an oil find, or in order to forward the oil resource exploitation agenda.
- The problem is that the range of backward and forward linkages in the economy that are created by all these other sectors that are neglected or destroyed are cumulatively greater than those created by oil.
- We must NEVER allow the oil find to lead us to neglect those other sectors.
- More important, we must not allow it to destroy the little what we have built; peace, relative security

- In the Natural Resource world, two areas constantly strive for mastery:
  - The “big, quick and dirty cash resources” (Oil, Minerals, Timber) and the “small, slow and neat cash resources” (Canoe fisheries, Agriculture, Vegetation cover for water bodies etc)
- Let us keep these broad issues in mind as we fashion ways of accommodating the oil find in our extant economy and society.

*Sardinella aurita*

