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Abstract

Purpose: This article examined the framework for oil revenue management, oil sharing and oil for sustainable peace with a view to applying it in South Sudan.

Methodology: Qualitative methodology was used. Purposive sampling of 100 respondents were used in the study which comprised of officials from the Ministry of Finance and economic planning, Ministry of petroleum, Members of parliament community activists and community members. Data was gathered from interviews, public available materials, articles and reports, and email exchanges.

Findings: The study examined the sources of petroleum revenue to enhance assessment, structure of the legislation and institutions regulating the petroleum oil sector for efficient application. The study argued that prudent management of petroleum revenue should be measured through the indicators of transparency and accountability, sustainable development, sovereign wealth fund, low corruption level, socio-economic well-being, good health and sustainable environment. The study further argued that decrees for frequent removal of the finance ministers and bank of South Sudan governors contributes to lack of planning hence a further mismanagement of the oil revenues.

Unique Contribution to Theory, Policy and Practice: The study therefore recommended streamlining the legislation and institutions, block revenue leakages and guarantee sustainable development. Revenue generated from petroleum oil resources should properly be utilized for socio-economic growth of the nation. The study urged the National Assembly to enact a statute that would harmonize the diverse legislation and institutions and cause them to operate strictly in accordance with the principles of good governance, transparency and accountability. On revenue sharing, the study proposes the adoption of the Alaska model by investing its petroleum revenue windfall in a Permanent Fund that will establish a basis for economic security in the long term.

Keywords: *Oil Revenue, Revenue Management, Oil sharing, Sustainable Peace*

Introduction

The Republic of South Sudan (RSS) is endowed with vast oil and gas resources that are being explored and produced by foreign and international oil companies under a production sharing contract (PSC) and other legal documents that have governed the petroleum sector since its discovery. With the succession of the RSS in 2011, the legal framework of the petroleum sector has gone through reforms and policy adjustments. It has been observed that the existing services PSC either contains some provisions that are inconsistent with international best practices or lack the necessary policies on oil revenue management that should benefit the RSS.

While South Sudan is still in its infancy after independence 13 years ago, it has nevertheless created a legal platform on how oil money can be used in managing the huge expectations of its citizens and keep their aspirations alive without compromising the interests of the foreign Oil operating companies which generate income from the natural resources. The absence of proper legal guidance always plays a key role in mouthwatering the political leaders to use money in safeguarding their political interests and undermining the key parameters of democracy (Tutdel et al, 2017). Issues equated to transparency, effective administration and denials of implementations of ambiguous patronage decisions always work when there exists a solid rule of law beyond compromise. Oil and gas are exhaustible and non-renewable extractive resources. Their production and utilisation should, therefore, be undertaken in a manner that creates durable and sustainable social and economic capacity for the country. Policy-makers should abundantly understand that their decisions in the oil and gas sector have an impact, whether positive or negative, on their attempts to build a prosperous or a disadvantageous society.

Consequently, this study explores the legal framework on oil revenue management, oil sharing transfers, oil and sustainable peace and analyses of fiscal provisions in the existing legal framework of the PSC that governs the petroleum sector in the RSS. This shall include a critical review of the legal texts of the transitional constitution of the RSS 2011, the Petroleum Act of South Sudan 2012, and other relevant documents attached to the petroleum sector in the RSS

Background of the study

The South Sudan got its independence from Sudan on 9 July, 2011 through a peaceful referendum. The secession of South Sudan was seen as a significant loss to Sudan in the oil sector because most of the oil producing fields were located in South Sudan. Although the oil was discovered earlier by Chevron companies, there was no significant development of oil infrastructures due to the outbreak of the Sudan second civil war in 1983. Nevertheless, the central government in Khartoum was able to build necessary infrastructures in order to realise the commercial production of its national wealth in mid-1990s, even though this period was unstable due to continued attacks by the SPLM/SPLA against the Khartoum regime till 2005 when the Sudan Government and SPLM/SPLA signed a landmark agreement known as the comprehensive peace agreement (CPA) on the 9 January, 2005.

According to Tutdel (2017), ninety-eight percent of the government's annual operating budget and 80 percent of its gross domestic product (GDP) is derived from oil, making South Sudan the most oil dependent country in the world. Since the government gets all of its revenue from oil, it has little incentive to invest in human resources or promote the development of a middle class that could provide a sustainable tax base. Conflict is another symptom of the resource curse. Globally, oil-producing countries spend three times more on their militaries than developed countries and ten times more than underdeveloped countries (Richard, 2012). The 56 percent of annual revenue that South Sudan allocated to military spending in the 2014-15 budget is a testament to this fact Jason (2014). When poverty and trauma from decades of civil war are factored in, the risk of protracted conflict increases. Studies have shown that countries in which resource exports constitute 33 percent or more of GDP have a 22 percent risk of conflict, compared to 1 percent risk for countries with no such exports (Paul & Anke, 2000). The conflict that has raged for many years and has only made matters worse. Reports from the Ministry of Petroleum and Mining indicate that petroleum production fell to 50 percent of its pre-conflict levels in 2014, before increasing to 169,000 barrels per day, or 70 percent of pre-conflict levels, by the end of the year. At the same time, oil prices on international markets have dropped by 60 percent since June 2014. South Sudan has no stabilization mechanism to protect it from fluctuations in international markets, and the drop in oil prices has had a devastating impact on the economy.

South Sudan's hopes for generating development from oil revenues are terribly misplaced, for the exploitation of oil in Africa has rarely brought about positive socio-economic outcomes. Indeed, quite the opposite is true: regions with an abundance of nonrenewable sub-surface resources nearly always experience declining development and slower economic growth than countries with fewer such resources. Nigeria offers a disturbing example of this trend (Hickel, 2017).

Statement of the problem

Long before a brutal conflict erupted in December 2013, South Sudan was already displaying all the telltale signs of the resource curse. Ninety-eight percent of the government's annual operating budget and 80 percent of its gross domestic product (GDP) is derived from oil, making South Sudan the most oil dependent country in the world. Since the government gets all of its revenue from oil, it has little incentive to invest in human resources or promote the development of a middle class that could provide a sustainable tax base. The management of oil revenue has been coupled with corruption by the top echelons causing economic crisis among citizens as they do not see and enjoy the benefits of their natural resource. The country has been confronted with large-scale civil conflict and one of the most serious humanitarian catastrophes in the world. Besides, the country is thought to be borrowing desperately to try to compensate for budget shortfalls due to poor oil revenue management, but little information is publicly available about the terms of the loans or how the borrowed funds are being used.

The government of South Sudan has been receiving revenue from oil produced in the country for nearly ten years. In all this time, it has not managed to put in place sound revenue management procedures with little or no transparency and accountability as required by law resulting in the economic crisis in the country. There is no reason to believe that a transitional power sharing government established by a peace agreement would succeed where past governments have failed. Oil revenue needs to be distributed in accordance with the law and not squandered on excessive military expenditure or lost to corruption. The legal framework clearly denotes on how the oil revenue should be managed and shared, however, the law remains unimplemented.

The petroleum revenue Account and Consolidated fund have been abused by the legally mandated government entities (Ministry of finance and Bank of South Sudan) due to lack of accountability and transparency and in particular virement in budgeting. The communities from the oil producing areas are even worse economically as their sharing revenue never reaches them besides them experiencing environmental issues affecting them. This study therefore examines and offers suggestions on oil management, oil sharing and oil for sustainable peace in South Sudan

Objectives

The major objective of this study was to examine how South Sudan oil revenue can be managed, shared and finally bring sustainable peace for sustainable development.

Research questions

This study was guided by providing answers to the following research questions:

- What effective and efficient parameters should South Sudan adopt for oil revenue management?
- What limitations does the legal framework have on oil management and oil sharing in South Sudan?
- How can oil for peace be sustained?
- What challenges do exist in oil management in South Sudan?
- What possible strategies could be deployed for redress of challenges?

Literature review

Legal framework

The regulatory framework for the petroleum sector in South Sudan is drawn from a number of pieces of legislation, including the Transitional Constitution, 2011 and the Petroleum Act, 2012. The Legislative Assembly passed a Petroleum Revenue Management Bill in 2013, but the legislation has stalled awaiting the signature of the president and it is not entirely clear whether government institutions consider it to be applicable law. South Sudan's petroleum laws are widely considered to reflect many aspects of good practice. However, as with most laws in South Sudan, they remain almost completely unimplemented. For example, TCSS chapter 2 section 6 subsection

2 says, any Petroleum Revenue due to the Government shall be paid into the Petroleum Revenue Account for subsequent transfers in accordance with provisions in this Bill. Section 7 subsection 1) Any company carrying out Petroleum Activities in South Sudan shall pay any Petroleum Revenue due to the Government into the Petroleum Revenue Account. On management of this account, section 8 (1), (2) The Bank of South Sudan shall hold any Petroleum Revenue received in foreign currencies at interest-bearing current accounts abroad with financial institutions with the highest security. Subsection 2 further states that the Ministry of Finance and the Bank of South Sudan shall enter into a management agreement on the management of the Petroleum Revenue Account. On transfers section 9 (1), (2) subject to subsection (2) of this Section, the Bank of South Sudan shall only make transfers from the Petroleum Revenue Account to:(a) the Consolidated Fund in accordance with sections 10 and 11 of this Bill; and (b) the Reserve Funds in accordance with section 14 of this Bill in a manner that creates durable and sustainable social and economic capacity for the country (Petroleum Act 2012). It is worth noting that Chapters II, III and IV of the South Sudan Petroleum Revenue Management Act, 2013 established the Petroleum Revenue Accounts and the process of making payments into and transfers out of these accounts. The Act also identified the Bank of South Sudan and the Ministry of Finance and Planning as the responsible institutions that execute these transactions. In particular, the Petroleum Revenue Management Act, 2013 provides for the establishment of Community Development Committee (CDC) and Community Development Committees' Coordination Forum (CDCCF). The CDC, which works at the county levels, plans and supervises the community fund while the CDCCF, working at the state level, provides oversight to the CDC. A county Legislative Council, established in accordance with the Local Government Act, 2009, establishes the CDC and approves its projects and programs following the presentation of such plans and projects by the CDC. The Act gives powers to county commissioners to nominate members to CDC and present them to County Legislative Councils for approval. The Act requires that the membership of CDC should be drawn from farmers' union, trade chambers, civil society organizations, traditional authorities, religious, women and youth groups. The committee is to be assisted by technical persons. The day to day affairs of the CDC are to be run by a Secretariat to be established. The CDCCF comprises state government officials and civil servants, as well as a nonpermanent resource person. The composition of CDCs is in principle achieved using procedures that are mindful of ensuring not only balanced gender representation but also that of youth (Petroleum Act 2012/13).

However, no emphasis is made in the selection criteria of CDC members about the level of education that can afford the body the requisite competence, leaving much to be desired about how efficient the Committee would be. Besides, the Act requires that the Ministry of Finance and Planning should transfer the equivalence of the 3% share to the CDC's account to be opened at the Bank of South Sudan, as earlier stated. It also states that every time the money is transferred to this account, the Council of States must be notified. Opening an account under the CDC and

notifying the Council of States are some of the critical safeguards for the fund management. However, the Act remains silent on the signatories to this account and the procedures for withdrawing the funds. These limitations can easily be exploited and abused, requiring additional safeguards to keep the funds safe.

The Act states that each month, the amount due to each petroleum producing community must be transferred to the CDC's account not later than the 15th day of the following month. Specifying the date on which the money should be transferred to the account can be one of the effective ways to ensure the money goes to the account as planned.

Oil Revenue Management

Effective public financial management (PFM) is a cornerstone of good governance (Amadi & Chukwuma, (2019). PFM, or the ability of governments to efficiently collect revenue and spend it in an accountable and transparent manner, is instrumental for nations seeking to expand their economic growth and increase available resources to pursue national objectives, including those relating to the United Nations' Sustainable Development Goals (SDGs) (Amadi & Chukwuma, (2019). Increase in petroleum revenue is associated with more savings, trade and investment as well as providing an enabling environment for more petroleum exploration. These engender employment, raise standard of living and increase infrastructural development. Poor petroleum oil revenue management and its effects on employment and the ability to pay wages when due, mean that poverty cannot end in all its forms everywhere (Markus, (2018). This is evidenced by failure of the government to even pay its workforce in time.

A well-managed petroleum oil revenue will promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. A corrupt and mismanaged government, where there is lack of transparency and accountability in the management of petroleum revenue, will weaken the agricultural and manufacturing sectors, thereby affecting the economy as it is the case with South Sudan. This results into lack of economic growth, increase in inflation, closure of the local industry as they will go out of production, leading to unemployment and casualization of workers. Moreover, the working environment will both be unhygienic and unsafe (Amadi & Chukwuma, 2019). For there to be sustained, inclusive and sustainable economic growth, petroleum revenue should be deployed to diversify the economy into agriculture, manufacturing industry, tourism, hospitality, and so on. Dubai in United Arab Emirate and Canada are examples of oil economies that have reduced their dependence on petroleum oil revenues and South Sudan can follow suite and diversify its agriculture, tourism and non- oil revenues and above all maintain peace.

Majority of the petroleum producing and exporting countries which depend on petroleum revenue resulting in the paradox of plenty, are facing abject poverty, economic instability and political strife, especially in places like Nigeria, Libya, South Sudan and Angola (Markus, 2018). Wide gaps exist between them and the countries that are not endowed with petroleum resources because

of corruption and mismanagement. Conversely, when petroleum revenues are properly managed, they will obviate the social vices and reduce inequality within and among countries. As averred by Cathal & Miller (2017), countries with mismanaged petroleum revenue have witnessed decaying infrastructure, strife, cultism, militancy, riots, conflicts and, sometimes, death. They have the most unsafe cities and human settlements in the world. However, a well-managed petroleum revenue can promote peace and hospitable cities and safe human settlements as advocated in SDG 11 (Cathal & Miller 2017). For instance, due to prudent management and diversification of petroleum revenue in the United Arab Emirate, the City of Dubai has become a global tourist centre and a place for holiday and rest. On the other hand, countries that consume more energy like China, U.S. perform better economically than countries that consume less. Countries dependent on petroleum revenue consume less energy due to lack of industrialization occasioned by mismanagement of petroleum revenue. A prudent and accountable management of petroleum revenue will engender industrialization and establish factories, extend the tax base and increase employment opportunities for the youth.

Oil Management Model

The Alaskan oil management model in my view would be the best model for South Sudan. The oil revenue management legislation could not only prevent the resource curse in South Sudan, it could successfully leverage oil wealth for poverty alleviation and sustainable development. Alaska provides an excellent example of how this could be done. According to Hickel (2017) upon achieving state-hood, Alaskan leaders drafted a constitution that included a unique article that dealt specifically with natural resources, mandating that they be developed on the sustained yield principle and for the maximum benefit of the people, in order to protect nonrenewable resources from corporate exploitation and government misuse. In addition, almost immediately after oil was discovered in the 1970s, the state established a Permanent Fund designed to provide a sustainable source of investment revenue that will last until long after the oil is gone. Portions of earnings from the permanent fund continue being distributed directly annually to all the citizens of Alaska through personal checks as Permanent Fund Dividend (PFD). This is to ensure that every Alaskan benefits directly from the exploitation of resources that are considered to be owned in common; and second, to supply every Alaskan with a partial basic income guarantee designed to stimulate local economies and help remediate poverty and social inequality. Hickel (2017). In addition to these benefits, economists Todd Moss and Lauren Young, (2009) have argued that the PFD has been instrumental in helping Alaska forestall the resource curse to which it would otherwise be extremely vulnerable given that the state relies on petroleum for over 80 percent of its revenue by generating a powerful social contract between citizens and the state a scenario experienced in South Sudan.

This management model empowers the citizens to do oversight over the oil industry with an interest in responsible resource management and the means to hold the government accountable. Since the citizens rely on the PFD to supplement their livelihoods, they vote in a manner that

supports careful and responsible resource management. No politician or government official gets away with mismanagement of oil revenues or siphoning the Permanent Fund without voters recognizing foul play and responding accordingly. While this on the surface seems difficult in South Sudan because of the military repercussions, in depth and reality, if the power is given to the citizens to oversight oil revenue, there can be some accountability.

In order to prevent government corruption, all of the oil revenues that the state receives should go immediately into an independently audited escrow account rather than into the state treasury, with audits available to the public on a quarterly basis. After allocations to the Permanent Fund and the personal dividend, 5 percent of total revenues should go to the local governments of the oil-producing regions, to be used in part to compensate people who are negatively affected by the industry's operations and to augment their basic income guarantee. These funds should be allocated according to a democratic oversight committee composed of representatives from civil society, trade unions, and the government in order to fortify against misuse (Hickel, 2017)

Oil Sharing Revenue

The Petroleum Revenue Management Act 2013 provides allocation of 5% of the petroleum wealth in form of dollars to the petroleum producing areas. 2% will go to oil producing provinces/states and 3% will go to the local communities which petroleum is being extracted. The practice in South Sudan is that none of 5% community entitlement has trickle down to the petroleum producing areas. Current practice has not enhanced proper accountability on the funds earmarked for the disbursement in the petroleum producing areas (Deng, 2015: 8). Thus to avoid, petroleum curse, the provision of the legislation should be implemented in later and spirit so that the revenue allocation spur growth and development in South Sudan.

For the five percent of oil revenue that goes to states and local government councils in oil producing areas, there is an urgent need for some sort of formal structure to manage funds effectively. Current practice is to disperse the funds in lump sum cash payments to local authorities, with little by way of oversight and accountability (Deng, 2015). These disbursements are not properly accounted for and do little to raise the standard of living for communities residing in oil producing areas. The use of community trust models may help to promote a more equitable and efficient allocation of these resources at the local level. In a community trust, oil revenue is vested in the community in its collective capacity. A group of trustees is designated to make decisions about the use of the resources for the benefit of local populations. Trustees are bound by a fiduciary relationship and are legally obligated to act solely in the community's best interest. Proceeds are invested back into the community through direct payments to community members or through the financing of development projects designed to meet the particular needs of the community. Through institutional arrangements with local government, community trusts can also help to promote democratic accountability and the incorporation of traditional institutions into the formal system of governance (Deng, 2015).

South Sudan adopted a derivation-based formula to allocate the 2% and 3% of net petroleum revenues to producing states and communities out of the petroleum revenue accounts managed by the national government. Indicator principle requires revenues to be distributed based on population size, poverty level, revenue generation capacity, and geographical characteristics such as remoteness, among others (Bauer et al., 2016; Morgandi, 2008). For instance, in jurisdictions with high population, revenues can be allocated proportionate to the size of the population.

The reasons for sharing resource revenues with the communities include recognition of local rights; compensation for the negative impacts of resource extraction; promotion of economic development in resource-rich areas and mitigation or prevention of violent conflicts (Bauer et al., 2016). First, the rights of local communities are acknowledged by allocating to them a portion of revenues accruing from the production of resources from their jurisdictions. This allows the resource extraction companies to get a social license to operate (SLO) (Moffat & Zhang, 2013, Gunningham et al., 2002). SLO is the general acceptance of a resource extraction company by a local community to do business in their territory (Tiitmamer, 2016a; Moffat & Zhang, 2013; Gunningham et al., 2002). If the rights of local communities are not recognized through resource revenue sharing or through other forms of benefits, these communities would often block the extraction companies from exploiting natural resources in their areas (Morgandi, 2008). For example, violence between local landholders and government in Papua New Guinea in 1988 led to the suspension of resource extraction (Bauer, 2016). During the 2016 conflict violence in South Sudan, Oil production in the oil producing areas of Upper Nile and Unity states were grossly affected (Reng & Nhial, 2018).

Secondly producing regions are often compensated for negative environmental and social impacts. Oil production leads to pollution of water, soil and air, which causes health problems and decline of farming due to soil contamination. Extraction of resources attracts immigrant workers, which change the standard of living beyond what the local people can afford (Reng & Nhial, 2018). In addition, extraction of a resource displaces the local inhabitants, rendering them destitute. The revenues are usually used to protect the environment, build education and health facilities and provide financial assistance to those affected, among others (Bauer et al., 2016). While this compensation is channeled for improving health infrastructure, it is in my considered opinion that receiving regions should focus on channeling the money to improve standards for preventing and minimizing the health impacts as prevention is better than cure.

Thirdly, natural resources are often found in remote and poor rural areas. Thus, additional revenues from the share of resource revenues help promote economic development in these regions (Bauer et al, 2016). Indonesian government for example, transfers a portion of revenues to oil and mineral producing jurisdictions for investment in education, health and infrastructure (Bauer et al, 2016). This effort has improved services in the producing jurisdictions. Similarly, Mongolia allocates 30% of oil revenues and 5% of mineral revenues based on geographical characteristics and development indicators. Empirical evidence shows that indicator based principle is more effective

in mitigating environmental problems and improving development because resources target the said issues (Bauer et al, 2016).

Oil revenue for sustainable peace

Resource revenue sharing arrangements have become important tools for engendering and maintaining peace and social cohesion. Bauer et al., (2016) define resource revenue sharing arrangement as “an arrangement through which government revenue from extractive activities is shared with subnational authorities. Subnational authorities are entities that are legally entitled to receive or spend government revenues (Bauer et al., 2016). Depending on a particular context, subnational authorities in South Sudan include states, Counties, Payams, municipalities and Boma traditional authorities

Amadi & Chukwuma, (2019) aver that prudent, transparent and accountable management of petroleum revenue will promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Where institutions in petroleum oil revenue management are strong, including, institutions for justice, there will be adherence to the rule of law. Law will be a respecter of no person, justice would be given without bias and there will be transparency and accountability at all level. Justice systems and the rule of law contribute to sustainable development through resolving land and natural resource disputes, keeping governments accountable, and giving businesses the confidence to enter into and enforce contracts

The government recognize that a credible pathway toward lasting peace is crucial to reversing the economic decline. Thus, they recognized the importance of macroeconomic policies and reforms that would immediately help to stabilize the economy and, if implemented, would enhance credibility with the international community and private investors. There is an immediate need to restore fiscal discipline and strengthen oil revenue management and public financial management, while maintaining tight monetary conditions. Non-transparent oil advances, oil-backed loans, and off-budget transactions are undermining fiscal discipline and budgetary integrity, which have led to high corruption vulnerabilities.

Challenges in management of oil revenues

According to Chol (2016), South Sudan received a total of USD 19.5 billion between 2006 and 2014 in petroleum revenues, which was an average of USD 2.3 billion a year. However, nearly the entire amount ended up in mismanagement and corruption. Since independence, a small rotating set of elites move seamlessly between positions in government and the frontlines of the rebellion, as political situations change in South Sudan (Sabuni, (2015). The country’s elites have built a kleptocratic regime that controls all sectors of the economy, and have squandered a historic chance for the development of a functional state. These predatory economic networks played a central role in the December 2013 civil war, because much of the conflict was driven by elites attempting to re-negotiate their share of the politico-economic power balance through violence

(Chol, 2016). Corruption in the country has permeated in every spectrum of the society, causing global worries. Lack of institutional and political will to punish the perpetrators has set a precedence of usual business in South Sudan.

Apart from corruption at the highest levels, corruption has featured at lowest echelons. The flows and utilization of the oil revenues has been done with ubiquitous corruption at the local government level. The streams of oil revenues from the state level stopped at the level of the commissioner and were embezzled for private enrichment and redistribution with a separate patronage network (Grawert and Andra, 2013: 55)

In reference to Chol, (2016), corruption in petroleum sector takes many forms; it is done through bribery, kickbacks and through mismanagement of the petroleum returns and takes place not only at the production and export stage through secret signature bonuses and opaque financial arrangements. Moreover, corruption is a result of extremely high and difficult to absorb investments at the upstream stage as well as at the trading or downstream stage, where massive resources tend to disappear through price transfers that are difficult to track. In practice, the risks of corruption in resource-rich environments are very large and the costs of such corruption to the national economy are enormous

Lack of Transparency and Accountability

The Transitional Constitution vests ownership of all subterranean natural resources, including oil and gas, in the people of South Sudan. As owners of South Sudan's oil wealth, the people have a right to know the terms under which oil is being produced and sold. Both the Petroleum Act and the Petroleum Revenue Management Bill include strong provisions on transparency and accountability, including requirements for public reporting of contracts, revenue and expenditure data. For example, the Petroleum Revenue Management Bill, if passed in its current form, would require the Ministry of Finance and Economic Planning to publish quarterly and annual records of all petroleum revenues. The Petroleum Act also requires the Ministry of Petroleum and Mining to publish all exploration and production sharing agreements (EPSAs), and all licenses online and by any other appropriate means. None of this information has been made public to date. The legislation calls for a Petroleum Registry to be established within the Ministry of Petroleum and Mining, which would maintain all agreements, licenses and authorizations and make them available for public review, but more than two years after the legislation was passed, the Registry has not yet been established. Another serious ingredient to lack of transparency and accountability is the conflict of interest. Conflict of interest arises in any situation in which an interest interferes, or has the potential to interfere, with a person, organization or institution's ability to act in accordance with the interest of another party, assuming that the person, organization or institution has a legal, fiduciary obligation to do so. A conflict of interest may cause harm to third parties and, therefore, be an injustice toward. Numerous studies demonstrate that numerous state corporations have codes of ethics and standards. However, practitioners' who are government employee's

adherence to them when performing procurement functions becomes a significant challenge for the majority of procuring entities (Obicci, 2015; Matto, 2017). According to studies, disobedience of a code of conduct results in corruption and mismanagement of the procurement process in a large number of public institutions them. (Ojienda & Adude, (2021) demonstrates how public funds were misappropriated in Tanzania due to a lack of accountability regarding radar procurement and the Richmond saga. Additionally, the excessive prejudice inherent in personalism creates a conflict of interest (Matto, 2012). Matto, (2012) also argued that personalism precludes responsibility management based on well-defined accountability principles.

Weak Public Finance Management

South Sudan's nascent PFM institutions and processes largely collapsed during the economic and political turmoil in recent years. With falling revenue, high inflation, and expenditure pressures, financial controls were circumvented. While a longer-term strategy needs to be devised, the government is encouraged to implement previous IMF policies on low-hanging fruit actions that would provide immediate impact. These include, removing ghost workers from the payroll; implementing the technical tools to support cash forecasting; preparing an annual borrowing plan as part of the budget cycle; and start verification of the current stock of arrears and developing a credible clearance strategy. The importance of PFMA enables accounting officers to manage but at the same time hold them accountable for the resources they use. PFMA establishes clear lines of accountability and broad frameworks of best practices that managers can adopt where necessary.

Research methodology

In light of understanding the research, the study adopted a methodology that included extensive review of the literature in development economics relating to the oil resource curse within the context of south Sudan. The research relied on publicly available materials, articles and reports. Information was also obtained from 100 respondents that were sampled using purposive sampling technique through Interviews and e- mail messages with community activists in south Sudan. The sample of respondents included the officials from the Ministry of Finance and Economic planning and Ministry of Petroleum and mining as custodians of the oil revenue management. Others included members of parliament and community leaders.

Presentation and Discussion of findings

In light of the findings based on historical public materials, articles, budgets, focused Group discussions and interviews with various stakeholders, I present the views with regards to oil revenue management, oil revenue sharing, oil for sustainable peace, challenges and suggestions for redress of oil revenue management in South Sudan.

Lack of transparency and accountability

Majority of the respondents 70% opined that there was no transparency and accountability in the government on the oil revenue management contrary to the petroleum Act 2013. The respondents

said that the management of oil revenue was riddled with the highest corruption. They further averred that there was no information on the amount of resource revenues collected and shared between the levels of government. 20 % said that there was no disaggregated data to verify allocations, transfers, receipts, and expenditure. This made it difficult to reconcile with the revenue distribution formula, resulting in suspicion from producing states. 10 % of the respondents who comprised of majorly the officials from the Ministry of finance and said there was an account in Bank of South Sudan where the petroleum revenue is deposited, however they averred that there were challenges with allocations and sharing formulae. These findings were in agreement with Chol (2016) that South Sudan could leap frog from natural resource malaise if the government implements the Petroleum Act 2012, Petroleum Revenue Management Act 2013, regulations associated with petroleum, health, safety and environment appropriately and effectively. According to Chol, (2016) for example, South Sudan received a total of USD 19.5 billion between 2006 and 2014 in petroleum revenues, which was an average of USD 2.3 billion a year. However, nearly the entire amount ended up in mismanagement and corruption. The future and oil stabilization accounts have not been operationalized in accordance with Petroleum Revenue Management Act (PRMA) 2013. PRMA 2013 article 13 stipulates that the Ministry shall establish at the Bank of South Sudan: the Oil Revenue Stabilization Account with 10% of total oil revenues, and the Future Generation Fund with 15%. The purpose of the Oil Revenue Stabilization Account was to act as a financial buffer to cushion the economy against volatility in petroleum revenue and to finance any unexpected shortfall in Petroleum Revenue during a Financial Year. Moreover, the purpose of the Future Generation Fund was to provide savings for the long-term and support the welfare of future generations. These two accounts hardly, have cash at the Bank of South Sudan given that oil revenues have been utilized outside the priorities of the government and the PRMA 2013. A lot of these monies have been misappropriated and lumped on the security sector budget on the pretext, leaving the critical sector of social services not attended to and this has contributed to poverty in South Sudan.

Lack of transparency by Nilepet

60 % of the respondents said that Nilepet manages the government's shares in the oil producing consortia in South Sudan and provides subsidized petroleum products to certain government entities but also has ambitions to get involved in crude production and refinery activities. 30 % argued that Staffs have been unable to obtain any financial statements of operations and legally required audited statements have never been completed despite requests from the Auditor General. 10% said there was conflict of interest in the company that is meant to manage oil shares at the same time engaging in business with the same government. This is in agreement with Deng, (2015) and Chol, (2016) that Nilepet should facilitate the conduct of an audit and eliminate all fuel subsidies, as they provide opportunities for misuse and act as a conduit for corruption activities. This finding was in line with Mbura & Kitheka's, (2020) finding that there were no mechanisms in place in South Sudan to screen out conflicts of interest in government entities. Furthermore,

respondents disagreed that evidence of disciplinary action against individuals who breach the code of ethics and professional conduct exists. These findings contradict Mrope's (2018) findings, which revealed that individuals who broke the professional code of ethics faced disciplinary action. In general, the findings support those of Osei-Tutu et al, (2014), who found a lack of openness and accountability in the procurement system in Ghana's construction and oil industry.

High turn- over among those supposed to manage oil revenues

Respondents were asked if high turn- over of those who manage oil revenue was a challenge. 90 % of the respondents were in agreement that the ever changes in the Ministry of Finance and Economic Planning and the Bank of south Sudan were the root causes of corruption in the management of oil revenue as these were the parties empowered by the petroleum Act 2012. For example, since Independence (July, 2011) there have 14 different ministers for Finance and 9 Governors of Bank of South Sudan within a span of only 14 years. The respondents averred that high turn- over affects performance and leads to loss in productivity, institutional knowledge, skills and lower morale. Every Minister of finance or Governor of bank of south Sudan appointed due to precedence created cannot fully plan and implement changes hence uses the opportunity to quickly enrich themselves before they are fired. This gives an explanation why the oil revenue management has had issues before and after independence. Lack of institutional and political will to punish the perpetrators has set a precedence of usual business in South Sudan. This is in agreement with the findings of Chol, (2016) that corruption in petroleum sector takes many forms; it is done through bribery, kickbacks and through mismanagement of the petroleum returns and takes place not only at the production and export stage through secret signature bonuses and opaque financial arrangements. Moreover, corruption is a result of extremely high and difficult to absorb investments at the upstream stage as well as at the trading or downstream stage, where massive resources tend to disappear through price transfers that are difficult to track. In practice, the risks of corruption in resource-rich environments are very large and the costs of such corruption to the national economy are enormous

Availability of Local structures in the oil revenue management

The researcher wanted to find out the involvement of the stakeholders in the management of oil revenues in oil producing states. 50% of respondents said that there were no functional structures at the counties and local government councils. 30 % said it was the commissioner who was in-charge and 20 % were not aware at all. The Petroleum Revenue Management Act, 2013 provides for the establishment of Community Development Committee (CDC) and Community Development Committees' Coordination Forum (CDCCF). The CDC, which works at the county levels, plans and supervises the community fund while the CDCCF, working at the state level, provides oversight to the CDC. A county Legislative Council, established in accordance with the Local Government Act, 2009, establishes the CDC and approves its projects and programs following the presentation of such plans and projects by the CDC. The Act gives powers to county

commissioners to nominate members to CDC and present them to County Legislative Councils for approval. The Act requires that the membership of CDC should be drawn from farmers' union, trade chambers, civil society organizations, traditional authorities, religious, women and youth groups. The committee is to be assisted by technical persons. The day to day affairs of the CDC are to be run by a Secretariat to be established. Deng, (2015 and Chol, (2016) aver that county council legislative assemblies are non-existent and unfunctional. Besides, the Act requires that the Ministry of Finance and Planning should transfer the equivalence of the 3% share to the CDC's account to be opened at the Bank of South Sudan. It also states that every time the money is transferred to this account, the Council of States must be notified. Opening an account under the CDC and notifying the Council of States are some of the critical safeguards for the fund management. However, the Act remains silent on the signatories to this account and the procedures for withdrawing the funds. These limitations can easily be exploited and abused, requiring additional safeguards to keep the funds safe.

Conclusion and recommendations

Conclusion

An appropriate legal and institutional design is necessary for prudent and transparent management of petroleum oil revenue in order to guarantee sustainable development. The fight against corruption is paramount. Petroleum oil revenue dependent countries should have detailed knowledge of their legislation and institutional frameworks to be able to categorize them for easy appraisal. The laws and institutions affecting petroleum revenue in South Sudan are strewn all over the place. Therefore, there is need for a new legal statute to harmonize diverse legislation and institutions and cause them to operate strictly in accordance with the principles of good governance, transparency, and accountability. This study recommends the enactment of petroleum oil revenue management law where the legislation and institutions for assessment and collection, distribution, expenditure, and combating corruption will be streamlined. The law should state clearly that missing budget and making budget proposal higher than actual expenses are corruption, fraud and abuse of office punishable by law and that perpetrators should be tried in a court of competent jurisdiction. Transfer of funds from one section of the budget to another without approval by the National Assembly contradicts the Public Procurement Act, can only termed as administrative or official corruption.

Recommendations

Improve Oil Revenue management

Appropriate oil revenue management is vital to provide resources to sustain spending on peace implementation, maintain basic government services and reduce vulnerabilities to corruption. The current practice of contracting oil-backed advances or prepayments is non-transparent and encourages misuse, and complicates accounting and monitoring mechanisms. Contract terms are often unknown and in-kind repayments which are unpredictable and make expenditure

management difficult. Moreover, the advances are costly and serve no good purpose in most cases for example, interest cost and fees amounted to \$11 million in 2017/18. The study therefore recommends a complete stop of contracting oil-backed loans, advances and prepayments. Government oil should be sold at spot market prices and gross proceeds should be transferred directly to the BSS oil account. This simplification will help enhance transparency, reduce costs, and ensure that oil revenues are fully available for financing budgetary spending. Also, it will ease expenditure planning and management because of a more predictable revenue stream. Moreover, detailed and up-to-date crude oil production and export information should be published on the Ministry of Petroleum's website, as stipulated by the Petroleum Act (2012). This applies to all transfers to states, counties or local government in oil producing areas.

Revenue Sharing

It is very critical to legally establish specific bank accounts for the transfers of revenues to states counties and local government jurisdictions and to ensure there are independent institutions to provide oversight on the transfers and spending. Therefore, there must be a clear understanding of the mechanisms that are used to share the resource revenues, and therefore, there should be a strict and enforced constitutional framework that ensures that key provisions are implemented. These should include: establishing objectives for sharing revenues with states, counties, Payams and Boma with special regards to recognition of local rights and compensation for environmental degradation; clear resource revenue sharing formula either on the basis of derivation thus sharing resource revenues based on origin; rules to guide the allocations, transfers and spending of revenues at states and local government areas with attention on health, education, road infrastructure and on agencies that provide oversight or monitoring of the expenditures and enforcement of penalties for noncompliance.

Secondly, the government should calculate the amount that has not been transferred since the law was signed, recognize it as a debt it owes to the communities and come up with a schedule of payments. This will put the government on track on fulfilling its policy objectives of equitable distribution of resources

Transparency and accountability

Transparency and accountability are key to successful implementation of oil revenue management in South Sudan and should be built into the design of the revenue sharing system and management. These serve as safeguards against corruption and inefficiency and ensure that the state cannot conceal revenue or claim that they have used these funds for development when this has not happened. South Sudan has very elaborate transparency and accountability sections in Petroleum Act, 2012 and Petroleum Revenue Management Act, 2013, but not implemented. The government should hold the responsible individuals or officers culpable for flouting the constitution with heavy penalties and charges to serve as a lesson to the rest of the officers.

The government should also establish and strengthen independent oversight institutions to monitor the implementation of the petroleum revenue management, sharing regimes including the three percent and two percent shares for the petroleum producing communities and states. The Transitional National Legislative Assembly and the Council of States should exert pressure to ensure these institutions are operationalized and functional through submission of quarterly reports to the Assemblies at all levels of government.

The Petroleum Act 2012 required that the Ministry of Petroleum should publish all exploration and production sharing agreements (EPSAs), and all licenses online by any other appropriate means (Deng, 2015: 5). The Petroleum Act 2012 further requires that the national oil company (Nilepet) make public annual audited accounts, assessed by an independent international firm, for the period since its establishment. Joint Operating Companies (JOCs) should play a critical role in ensuring that they are making payments into the legally mandated account, controlled by the Ministry of Petroleum and Bank of South Sudan. Thereafter the JOCs should disclose their payments as well as the government to the third party as required by the Petroleum Revenue Management Act 2013. Besides, reporting publicly, on quarterly basis, the amount of petroleum revenues earned, how much has been transferred to the main budget, the saving funds, and to communities in oil producing areas is equally vital in enhancing effective accountability. This requires participation of the parliament in spending decisions through budget process, that communities affected by the oil production receive additional funding from the Government, and that the oil money is not used as collateral for loans.

Disclosure of information

The government should actively and regularly disclose information on the petroleum sector in general and especially on sales volume, revenue collections, allocations, transfers and expenditure and develop a system of accountability including periodic audits by independent Audit firms. The disclosures will restore confidence in the citizens, increase transparency and cuts down misuse or manipulation in the operations and management. Disclosures also make it easier for investors to make informed decisions.

Decrees in the key sectors of management of oil

Under TCSS section 113 (1) the Ministers of the National Government shall be appointed and removed by the President. A prerogative that cannot be challenged but section 116 (2) says ‘The council of ministers shall be collectively answerable to the president and the national Legislative Assembly in the performance of its actions’. Therefore, the cabinet meetings during their deliberations should guide the president on the frequent changes in the ministry of finance and the bank of South Sudan who are mandated by law to manage the oil revenues. High turn-over in these institutions has been the recipe for corruption as the appointees are fully aware of exit any minute. The government has had over 12 ministers of finance and 9 bank of south Sudan governors within a span of 13 years. There can never be sound evaluation of the performance of the economy

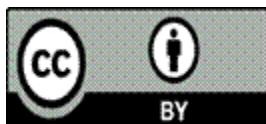
and management of the oil resource if this trajectory circle is left to continue. The cabinet and the parliament in their wisdom should advise the president to have a technocrat in the two institutions and give them time to revolutionalise the economy without interference from any political or military circle for at least 3 years.

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