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The 'new' institutional politics of Ghana's hydrocarbon governance

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Abstract

Ghana’s discovery of oil in 2007 saw a rush to production in just three years. However, regulations lagged behind and it was not until 2011 that new legislation was enacted in key areas of oil and gas governance. Central to the legislative framework was the creation of the Petroleum Commission as the new regulator of upstream activity, while the national oil company – Ghana National Petroleum Corporation (GNPC) – was formally shorn of its regulatory role so that it could focus on commercial activities. This paper examines the performance of these separated institutions. Performance is always conditioned by deeper political dynamics and so we have moved beyond evaluating performance only from the perspective of the formal institutional remits. Using a political settlements lens, we argue that this separation of roles has been partially successful but that GNPC remains heavily involved in some aspects of regulation, due to its embedded power and the technical expertise it holds. The company has also become a vehicle for electoral politics in Ghana’s highly charged democratic system. At the same time, the Petroleum Commission has begun to find its feet after a few years of weak capacity but it remains heavily influenced by party political appointees and has only really been successful in putting in place critical subsidiary legislation and monitoring local content requirements. These dynamics around oil sector governance are in keeping with Ghana’s political settlement dynamics, which are competitive and clientelistic, so that key institutions become embroiled in partisan competition, producing mixed policy results.

Keywords: Ghana, oil, political settlements, institutions, competitive clientelism, GNPC

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1. Introduction

Ghana’s discovery and exploitation of offshore oil prompted renewed debates around the potential of natural resources to stimulate national development. Ghana started pumping oil in 2010, just three years after viable quantities of oil were discovered. Much of the legislation and institutional reform lagged behind this speedy production schedule, with key laws only being passed from 2011 onwards. At the heart of these new reforms was the separation of functions between the Ministry of Energy that provided strategic direction, a regulatory body – the Petroleum Commission – and a more commercially-oriented national oil company (NOC), the Ghana National Petroleum Corporation (GNPC). Given that Norway was an early adopter and advocate of institutional separation in its oil sector, such reforms have been dubbed ‘the Norwegian Model’. While this separation of functions was initially resisted by GNPC, there was more or less a consensus that such reforms were necessary and in the national interest. Supported by some donors and international organisations, the reforms have now been in existence for almost a decade. This paper assesses how well the new oil governance institutions have performed.

For Ghana, this focus on institutional performance presents something of a conundrum, insofar as the ‘good governance’ logics which underpin the Norwegian Model would suggest that Ghana’s well-functioning democracy and relatively strong institutions should result in good oil governance following the separation of functions (Heller and Marcel 2012). We show that, while Ghana’s oil governance has performed reasonably well, its highly competitive and clientelist political settlement undermines institutional performance in key ways. This points to the fact that institutions do not operate in vacuums and their performance is shaped by a wide range of inter- and intra-organisational factors. Institutions are not homogenous, with some (or some parts) having greater capacity than others. More profoundly, institutions are shaped by the underlying power relations that characterise the political system in which they are embedded, and this system is invariably transnationalised to a greater or lesser extent. So, rather than simply assess institutional performance on its own terms – that is, measured against what they publicly set out to achieve – we examine how the deeper ‘political settlement’ has shaped institutional design, agendas and performance.

Ghana struck oil in commercial quantities in 2007 with the Jubilee Field, operated by Tullow Oil. There are currently 18 active contract areas in upstream operations and 20 discoveries made since 2007, including within the Jubilee Field (See Table 1 below). Most of these discoveries are still being appraised but two new ones are being developed – the Tweneboa-Enyenra-Ntomme (TEN), operated by Tullow and Sankofa Gye-Nyame (SGN) fields. TEN began production at the end of 2016 and the SGN field began production in 2017. The two additional fields come with associated and non-associated gas, which is critical to reducing the cost of fuelling power plants. The transformative imaginaries of oil and gas loom large in the minds of political elites but it represented just 8.2 percent of total government revenues and grants at its peak of $978m in 2014. This dropped significantly following the sharp drop in oil prices from

2015, which was exacerbated by a boundary dispute with Cote d’Ivoire which went to the International Tribunal for the Law of the Sea (ITLOS). Total revenues for 2018 increased to $977.12m as result of increased production from TEN and SGN, but then declined marginally to US$925.04 million in 2019 (PIAC, 2020).

In terms of petroleum exploitation, the state oil company, GNPC, serves as the representative of the government of Ghana (GoG) in any oil transaction, while its subsidiary, the Ghana Gas Company, represents government’s interest in respect of gas exploration, sale and transport. The Petroleum Commission (PC) regulates the upstream oil and gas sector, after it was established in 2011 to take over the regulatory functions of the sector previously undertaken by GNPC. This was to enable GNPC to focus on the commercial interest of the state as the NOC. The allocation and expenditure of revenues generated from oil exploitation are governed by the Petroleum Revenue Management Act 2011 (PRMA). Awards of oil blocks, exploration and development of wells are governed by the Petroleum (Production and Exploration) Act 2016. The PRMA established a unique monitoring institution, known as the Public Interest and Accountability Committee (PIAC), which comprises representatives of civil society organisations and is mandated by law to monitor implementation and compliance with the PRMA.

We assess the performance of Ghana’s new oil sector institutions from their inception in 2011 to the present. This was primarily done by tracking the activities of the PC and GNPC and analysing the extent to which performance was shaped by internal or external factors, or some combination of them. In terms of performance indicators, we took a more process-based view, as opposed to a hard metrics approach. To this end, we addressed the following questions:

- How were the ‘best-practice’ reforms adopted?
- Have the new rules been enforced? E.g. have new entities been established and enabled to function effectively?
- Is sector governance more or less coherent than before?
- Have the new reforms led to higher levels of organisational capacity within the separated institutions? Can any of these be considered pockets of effectiveness?
- To what extent, if any, have the governance reforms enabled government to secure relatively good oil deals?
- Is the sector performing better in terms of pace of production and project delivery?
- Has there been increased levels of public investments due to resources generated in the oil sector?

The data to address these questions was collected primarily from semi-structured interviews with a range of actors in the sector, either currently (at the time of interviews) or in the past. These took place over three rounds in 2014, 2018 and 2019. These were largely focused on the three separated institutions – GNPC, the Ministry of

Energy, and the PC – but also civil society actors. We also include data from Ministry of Finance (MoF) and international evaluations of Oil for Development (OfD) and World Bank programmes, commissioned by these organisations.

Our argument is that the separation of regulatory and commercial roles has been partially successful, but that key technical expertise within GNPC and its embedded power as the centre of the oil industry in Ghana means that it has retained much control. Yet, at the same time, it has been politicised by rival parties, which has shaped its fortunes, while the PC has also suffered from partisan turf wars. That said, the PC's capacity has grown and it has been successful in areas like passing critical regulations and local content implementation. The next section sets out our argument around the relationship between the political settlement and institutional performance, before sketching out our methodology for anlaysing these dynamics. Section 4 then gives an overview of Ghana's political settlement and how it has shaped oil governance so far. Despite the recent return to power of the New Patriotic Party (NPP) in 2017, we argue that this has not altered the political settlement in a noticeable way. The following two sections examine the two key institutional arrangements in more detail, before concluding.

2. Institutional separation and political settlements

As noted, Ghana readily adopted the Norwegian Model of oil sector governance, although from the mid-1980s it has been what Heller and Marcel (2012) characterise as an 'NOC-dominated model'. In new petroleum frontiers across Asia and Africa, governments have experimented with the Norwegian Model as a means of promoting dynamism and good governance amidst intense exploration and nascent production. The regulatory reforms were motivated by the practical question of where and when policymakers and reformers should promote the administrative design of separated functions. In terms of the potential impact of the Norwegian model, Thurber et al. (2011) argue that separation can lead to enhanced operational performance and increased return on investment on the part of the state oil company and enhanced monitoring of benchmarks on the part of the regulatory body. Their findings suggest that countries with strong institutional capacity and competitive political systems present the best environment for formally separating regulatory functions from commercial ones and that where these conditions do not hold, performance is likely to suffer. Where one of the elements is missing, it might be better to leave these functions within one institution. Given that Ghana is considered to have decent institutions and a well-functioning electoral system, one would expect Thurber et al.'s hypothesis to hold, insofar as separation would enhance performance in the oil sector.

Yet, as noted, understanding performance requires us to move beyond the existence and functioning of formal institutions, which were the primary focus of Thurber et al.'s study as well as Heller and Marcel's study of similar processes, though admitting a wider range of possible models for oil sector governance beyond the separation model. Our analysis suggests that, despite having the conditions conducive to effective separation, Ghana's political settlement has tempered this effectiveness and in so doing compromised performance to some extent. We understand political settlements as emerging ‘when the distribution of benefits supported by its institutions is consistent with the distribution of power in society’ (Khan, 2010: 1). By focusing on the underlying power arrangements that underpin the emergence, stability and performance of institutions, political settlement theory pushes development thinking beyond the normative institutionalism of good governance discourse to examine coalitional politics at the heart of the state. This opens up a focus on informal institutions in understanding governance in developing countries, where the clientelistic nature of politics is widely acknowledged. Khan (2010) argues that although the imperatives of political stabilisation and the maintenance of power through clientelism are a common feature of all developing countries, the organisational structure of patron–client networks varies across and within countries over time, depending on the configuration of power in society. Khan argues that the highest levels of state capacity for development are likely to occur where the vulnerability of ruling elites is low, and it is this level of regime security that encourages those in power to adopt longer-term time horizons as well as reducing the transaction costs of implementing policies. Conversely, where there is a credible threat to the ruling coalition from powerful excluded groups, who may be able to wrest power through elections, and where lower-level factions are strong enough to make multiple demands on the centre, then the prospects for building long-term institutional capacity are diminished. These vertical and horizontal distributions of power give rise to four ideal types of ruling coalition that can be used to summarise the opportunities and constraints facing ruling elites. These are: competitive clientelism; vulnerable authoritarianism; dominant party/leader; and potential developmental coalition. We discuss presently how Ghana’s competitive clientelist political settlement has shaped the nature of its institutions at the point at which oil was discovered and as separation reforms were developed, as well as how this has affected institutional performance.

Institutional performance is not only affected by these wider political processes, nor is it only affected adversely by them. Part of our approach is to nuance political settlements and institutional performance through the idea of ‘pockets of effectiveness’ (PoE). PoEs are:

> ’public organizations that are relatively effective in providing public goods and services the organization is officially mandated to provide, despite operating in an environment in which effective public service delivery is not the norm’ (Roll, 2014: 24).

Recent work on oil sector governance in developing countries identified PoEs as important in determining whether oil is governed effectively (Hout, 2013, Hickey et al. 2020). Linked to the wider political settlement argument is the possibility that where ruling coalitions are more vulnerable, their commitment to creating or nurturing growth-enhancing institutions is likely to diminish. The corollary is that PoEs are more likely to emerge, be protected and to flourish within dominant than within competitive settlements, because the long-term vision to invest in building institutions and the capacity to do so is more likely to emerge in such contexts (Whitfield et al. 2015). As a result, some observers note that ‘Pockets of efficiency are difficult to create under Competitive Clientelism’ (Whitfield et al., 2015: 106). As we will show, even where such agencies are created in countries characterised by competitive clientelism, as with Ghana’s GNPC, their endurance can easily be undermined by policy discontinuities engendered by interparty political rivalries.

3. Ghana’s political settlements

Prior to the discovery of oil, political settlement dynamics in Ghana were characterised by competitive clientelism whereby excluded elite factions and lower-level factions are strong enough to make the ruling coalition vulnerable, prone to short termism, with a weak capacity and commitment to long-term development (Whitfield et al., 2015; Abdulai and Hickey, 2016; Mohan et al., 2018). The current political settlement has its roots in the decolonisation processes when inter-elite competition over state power coalesced around two political traditions – Nkrumahists and Busiaists – named after the founders of these coalitions (Whitfield, 2009; Mohan et al., 2017; Whitfield, 2018). Over time, this has led to a de facto two-party system mobilised around the Nkrumahist National Democratic Congress (NDC) and the Busiaist New Patriotic Party (NPP) that have controlled politics in Ghana since the return to multi-party rule in 1992. Elections between the NDC and NPP have become increasingly intense, with each election potentially leading to an alternation of power between them: of the seven presidential elections held between 1992 and 2016, the NDC won four, while the NPP won the remaining three. In this context, ruling political elites are always vulnerable to electoral defeat, due largely to the strength of excluded elite factions that mobilise to challenge the incumbent. Elite vulnerability is further exacerbated by the fact that lower-level factions within each coalition remain strong and are able to block party elite policies and programmes that are perceived to threaten political benefits as well as demand extensive patronage goods for ongoing support. Ideological differences between the two dominant parties have shaped, to some extent, the way Ghana’s oil has been governed. The NDC is more resource nationalist, while the NPP has taken a more pro-market approach. Mohan et al. (2017) have analysed the inter-party dynamics from the period of oil discovery in 2007 to around 2015. In this paper, we focus on more recent political developments.

Ghana’s most recent presidential election was held in December 2016, in which the NPP ousted the NDC. The incentives within the oil sector generated by Ghana’s competitive clientelist political settlement were at play upon assumption of office by President Akufo Addo in 2017. A feature of Ghana’s political settlement is that ministers and many senior bureaucrats are replaced following a change of ruling party, which allows ruling elites to politicise state institutions. As we will see, appointments to CEO and board positions in the sector reflect a general presidential preference for NPP party activists and sympathisers, including a number of individuals who held positions in the sector during the previous NPP ruling coalition (2001-2009). The NPP’s new appointments represented powerful factions in the NPP ruling coalition and therefore could not easily be dominated by one faction. In the past, the GNPC dominated the sector, because a number of actors governing the institution wielded more power than even ministers within government. Since the sacking of the energy minister in mid-2018, the balance has tilted towards the kitchen cabinet of the presidency which includes his nephew, brother and cousin. These observations underscore the importance of competitive clientelism and intra-party factionalism in shaping the governance of the oil sector, with top-level appointments driven more by political calculus than technocratic competence.

Although there have been a number of new institutional arrangements since Ghana’s oil discovery, the rest of this paper focuses on the creation of the PC as the new regulator and the concomitant movement of GNPC to a more commercially oriented NOC that *de jure* relinquished its regulatory role. We trace their development and assess the impact of new institutional arrangements on the performance of the sector overall in the unfolding oil and gas landscape of Ghana.

4. Establishment and performance of the Petroleum Commission

Following Ghana’s oil find in 2007, there emerged an urgent need to strengthen institutional mechanisms for more accountable governance of the petroleum sector. In particular, a group of civil society actors, donors and political/bureacratic elites pushed for putting in place stronger regulatory institutions and frameworks, in order to avoid the ‘resource curse’ (Gary, 2009). Of particular concern in the new reform agenda was the excessive concentration of power in the GNPC at the time of oil discovery. Under the prevailing regulatory regime set up in the mid-1980s, GNPC took on the role of a regulator of the industry, as well as participant in the production activities, thereby creating a conflict of interest.[1]

A policy consensus

At a government-organised national forum in February 2008, there was a near consensus among the international petroleum experts that regulatory and commercial functions should be separated (Gary, 2009; Scanteam, 2014). One respondent told us there was ‘a complete consensus’ on the issue,[2] , which meant that most contestation has come in the implementation and operation of the separated entities. However, some GNPC officials, including the Corporation’s director of operations at the time, Thomas Manu, expressed reluctance towards the idea of decoupling. In line with the thesis of Thurber et al. (2011), Manu argued that the organisation’s current combination of ‘commercial, regulatory, and noncommercial functions at this stage of our developmental life cycle is more beneficial than if these roles were split’ (quoted in Gary, 2009: 38). When the NDC came to power in 2009, there was some division over the idea of separation of roles among the ruling elite. This played out in the decision to take away GNPC’s management of the gas sector. Political elites, who were close to President Mills, including the presidential advisor on petroleum and founding CEO of GNPC, Tsatsu Tsikata, as well as the GNPC chairman and major financier of Mills’ campaign, were vehemently opposed by Kwesi Botchway, a leading member of the

[1] Interview, GNPC official 1, 17 April 2019; Hickey et al. (2020).
[2] Interview, GNPC official 1, 17 April 2019.

NDC, who saw consolidation as overconcentration of power in one institution and the elite faction that controlled it (Phillips, 2019). This rivalry led to the setting-up of Ghana Gas, initially as an independent entity. The rivalry was therefore not only between the ruling coalition and excluded factions but also *within* the ruling coalition under Mills, which is a pattern typical of Ghana’s political settlement (see Whitfield et al., 2015).

Key donor countries and development agencies, led by Norway and the World Bank, expressed support for institutional separation and sought to influence the reform process (Gary, 2009). In December 2010, the World Bank approved a US$38 million[3] credit to the GoG for implementing an Oil and Gas Capacity Building Project. Part of the funds had a ‘disbursement condition on satisfactory establishment of a future petroleum regulatory body’ (World Bank, 2010: 7), which even included providing a new headquarters for the PC.[4] Norway’s government involvement in the reform process was the most consequential, with an insider commenting that ‘basically we bought the Norwegian model’.[5] Much of the programme involved institutional strengthening and worked in tandem with the World Bank programme. The OFD and WB programmes also offered training of personnel to work in the PC, while the World Bank focused additionally on the physical aspects of setting up the PC (World Bank, 2018). The other key area was the data repository. GNPC historically held the seismic data that could be licensed to potential investors and, with the separation of functions, an independent data repository needed to be established as part of the PC.

Ghanaian civil society also played a role in influencing regulatory reform in the petroleum sector. Supported by donors, the Ghana Civil Society Platform on Oil and Gas (CSPOG) was formed, which argued that there were governance risks associated with ministerial regulation of the industry (CSPOG 2011: 8). In the first Petroleum Commission Bill, GNPC was to serve on the governing board of the Commission, but the Platform persuaded parliament to reject the provision, arguing that this constituted a conflict of interest (Gyimah-Boadi and Prempeh, 2012). However, GNPC’s monopoly of power was not supported by all NDC MPs, and CSOs threatened to get MPs not supportive of the idea of separation voted out of power.

The Petroleum Commission Act (Act, 821) was passed in June 2011, which established the PC as the independent regulator of the upstream sector of Ghana’s petroleum industry. The PC’s remit covered a petroleum register of public records pertaining to oil exploration and development, overseeing community relations with oil companies, supervising adherence to health, safety, security and environment (HSSE) policies, monitoring technical compliance of operators, issuing licences of exploration and development, vetting and granting work permits for overseas workers, and maintaining the national data repository. By the end of 2011, the PC was formally established, though it had scant staff and poor infrastructure. By mid-2014, its staff had grown to 65 and new offices had been built, with numbers growing to around 200 in

[3] The value was later revised upwards to almost $58 million, of which over $55 million was eventually used (World Bank, 2018).
[4] Interview with senior PC official, 2018.
[5] Interview, GNPC official 1, 17 April 2019; senior officer at OFD, 10 May 2019.

2018 (Scanteam, 2014).[6] While the PC has been able to close the capacity gap in several areas of operations, it still relies on staff seconded from GNPC to manage some of more technical roles in appraising oil wells and other exploration and development tasks.

Performance of the PC

The PC's performance of its mandated functions has been improving over time, yet its operations continue to be hampered by a number of institutional and political factors. The key donors that supported the capacity building of the PC have been upbeat about the performance of the Commission and their role in shaping its improved performance. In a review of its oil and gas capacity-building project, the World Bank (2018) argues that: 'there is strong evidence that the project built substantial regulatory capacity at the Petroleum Commission' (p.16) and describes the PC as an 'an effective institution' (ibid.) – a view echoed by some respondents during interviews:

> 'Separating the functions I think has been helpful. Ghana did not have the level of experience to even regulate. There was a need to build capacity systems to play effective regulatory functions and having a whole new institution was very, very important and relevant and I think that we would have thrown a lot of investment in a GNPC that may not have yielded where PC is now.'[7]

Notwithstanding its positive progress, the incentives generated by party competition and clientelist politics have shaped how institutions have emerged and performed since the separation. For example, at the end of 2014, an evaluation report highlighted the PC's insufficient clout and lack of independence as a major challenge that undermined its performance (Scanteam, 2014). A good way to assess the PC performance is along three main dimensions: promulgation of critical legal and policy frameworks to regulate the sector; licensing of oil blocks (including its impact on fiscal terms); and the enforcement of petroleum agreements. These three dimensions are key in the Ghana case, considering that the PC had to start from scratch. It required the relevant legal framework and authority to regulate the sector. Moreover, once established, it had to be quickly brought up to speed to take over the regulatory functions initially performed by the GNPC, particularly in allocating new oil blocks, supervising exploration and well development activities.[8] We discuss these in turn.

Legal and policy frameworks

A number of important laws and policies have been passed since the establishment of the PC, largely attribute to the work of the new Commission. However, the pace and content of legislative reforms have been influenced by the interest and ideas of both domestic and transnational actors operating within the prevailing political settlement. As Heller and Marcel (2012) note, where institutional capacity is weak, international

[6] Interview with PC senior official, 14 November 2018.
[7] GOGIG official 1, 16 April 2019.
[8] As the World Bank noted, 'Building a new upstream regulator from scratch in a country with no prior petroleum experience entailed a long-term, focused effort at building physical, human and institutional capacity' (World Bank, 2018:16)

actors – particularly donors – can offer 'surrogate' capacity. The OFD, for example, played a critical role in drafting the Petroleum (Exploration and Production) Act 2016 that replaced the existing Act. In this new E&P law, all petroleum agreements are to be entered into after an open and competitive process, except that the minister could opt for direct negotiations with an IOC. In late 2018, Ghana opened a licensing round, with a mix of open and competitive tenders, restricted or direct negotiation blocks and blocks reserved for GNPC.[9] Earlier in 2013, a Petroleum (Local Content and Local Participation) Regulation was passed. The law set a very ambitious target of 90 percent employment of Ghanaians at both managerial and lower levels and 50 percent local participation in the supply chain, within a decade. Through the OFD and World Bank support, the PC has also passed key technical legislation and policies.[10] By the end of 2017, the PC was funding its activities from internally generated funds and was off government subvention.

In the process of setting new rules, the incentives generated by Ghana's political settlement and the countervailing forces restraining their deleterious effects were at play. For example, moving the licensing process from direct negotiation to open and competitive bidding became a party political agenda, as each party sought to present itself as the champion of transparency, while CSOs battled to ensure the legislation was not diluted.[11] Even though political elites succumbed to the accountability pressures, they created discretionary powers that allow them to escape the rules. For example, it was expected that upon assuming power, the NPP would immediately move to implement the new E&P law, but it chose direct negotiation instead in signing an oil contract with Exxonmobil.[12] In reality, however, the hesitation to subject the processes to open and competitive bidding was part of efforts by political elites to keep personal control over the process, in order to extract benefits for themselves and their parties.[13]

Licensing of oil blocks

The second area of PC performance is the extent to which it has been able to effectively regulate the sector in terms of negotiating petroleum agreements and obtaining good deals for the country. Generally, additional oil entitlements have

[9] https://www.reuters.com/article/us-ghana-oil-exploration/ghanas-first-oil-exploration-licensing-round-attracts-global-majors-idUSKCN1ON0XQ (accessed 25 January 2021).

[10] These include the Petroleum Exploration and Production (Measurement Regulations) 2016, together with guidelines on fiscal metering, (Data Management Regulations) 2017, Health, Safety, Secuirity, Environment Regulations (HSSE) 2017, as well as guidelines on the formation of joint venture companies to address the practice of 'fronting', and guidelines on oil and gas insurance placements. The PC now has a full Fiscal Metering Department, with technicians able to undertake the measurement activities. Lastly, in 2015, the PC facilitated the passage of the Petroleum Commission (Fees and Charges) Regulations that regulate the fees for the PC activities, including licences, registration of service companies, and accessing the seismic data.

[11] http://www.reportingoilandgas.org/civil-society-organisations-advocates-for-a-competitive-petroleum-exploration-and-production-ep-bill/ (accessed 19 January 2021).

[12] https://www.modernghana.com/news/924901/parliament-passes-exxon-mobil-deal-amidst-minority-protest.html (accessed 19 January 2021).

[13] https://www.modernghana.com/news/829788/concerns-raised-over-ghana-government-and-exxonmobil-deal.html (accessed 19 January 2021).

increased since the agreements made between 2006 and 2008. However, the continuous use of direct negotiations (until 2018), the dominance of the GNPC in the licensing process and the persistence of political and personal interest in the awarding of oil blocks show that not much has changed in terms of managing the licensing processes. Four of the 18 existing petroleum agreements were signed before the establishment of the PC, while the remaining 14 were signed during the operation of the PC. One review of the exploration licences awarded between 2013 and 2014 noted that a number of the new oil blocks were awarded to companies that did not have the requisite technical or financial capacity to undertake exploration (Amin, 2015).

The capacity gaps in some key technical areas of the PC's mandate also played into the GNPC's hands and helped maintain its dominance in the licensing process. Before the 2016 E&P law, the GNPC dominated the composition of the Standing Bid Evaluation and Negotiation Team because of the concentration of technical expertise in the institution.[14] The negotiation team was chaired by the chief director of the Ministry of Energy (MoE), who himself is a former GNPC staff. The team advises the minister, who has the ultimate decision to approve a deal subject to Cabinet approval. In reality, once there is approval from the presidency, the rest of the processes, including parliamentary approval, are expected. It is fair to say that, given the PC's still limited role in the licensing process, it is difficult to ascertain their influence in terms of fiscal terms that are eventually agreed. Table 1 shows the fiscal take has improved over time.

Table 1: Fiscal terms in the oil and gas sector since 2004

	Contract area	**Operator**	**Year of agreement**	**Acreage**	**Royalty**	**CAPI***	**CIT ** **
1.	West Cape Three Points	Tullow	2004	48 sq. km	Oil: 5%	13.64%	35 %
					Gas: 5%		
2.	Deepwater Tano	Tullow	2006	61 sq. km	Oil: 5%	15%	35 %
					Gas: 3%		
3.	Offshore Cape Three Points	ENI	2008	693 sq. km	Oil: 7.5%	20%	35 %
					Gas: 5%		
4.	Deepwater/Cape Three Points	Aker	2006	2,100 sq. km	Oil: 4%	10%+3%	35 %
					Gas: 3%		
5.	East Cape Three Points	Medea	2013	1,565 sq. km	Oil: 10%	10%+17.5 %	35 %
					Gas: 5% of domestic use, 10% of liquified natural gas (LNG) exports		
6.	Central Tano	AMNI	2014		Oil: 12.5%	10%+20%	

[14] In May 2017, as part of preparations towards government's first competitive licensing round, the then minister for energy announced a 19-member Licensing Bid Evaluation and Negotiation Committee. Out of the 19, nine members were from GNPC, whereas the PC had only two representatives and the MoE had five representatives, complemented by officers from the Finance Ministry, the Ghana Revenue Authority, the Ghana Maritime Authority and the Attorney General's department.

				277.9 sq. km	Gas: 5% of domestic use, 10% of LNG exports		35 %
7.	*South Deepwater Tano	AGM	2014	3,482 sq. km	Oil: 10% Gas: 5%	10% +15%	35 %
8.	**South West Saltpond	Britannia-U	2014	2,050 sq. km	Oil: 10% Gas: 5% of domestic use, 7.5% of LNG export	20% + 5%	35 %
9.	Shallow Water Cape Three Points	Sahara	2014	1,501.81 sq. km	Oil: 12.5% Gas: 5%	10% + 15%	35 %
10.	*Offshore Cape Three Points South	UB	2014	755 sq. km	Oil: 12.5% Gas: 5% of domestic use, 10% of LNG exports	13% + 25%	35 %
11.	East Keta Offshore	GOSCO	2015	2,239 sq. km	Oil: 10% Gas: 6% of domestic use, 10% of LNG exports	22.6%	35 %
12.	Deepwater Cape Three Points West Offshore	Eco-Atlantic	2015	944 sq. km	Oil: 12.5% Gas: 10%	13% +20%	35 %
13.	Cape Three Points Block 4	ENI	2016	1,127 sq. km	Oil: 10% Gas: 7.5%	10% +9%	35 %
14.	West Cape Three Points Block 2	Springfield	2016	673 sq. km	Oil: 10%-12.5%	*11%-ND, 8-ED 17%-ND, 5% ED	35 %
15.	Onshore/offshore Keta Delta Block	Swiss Africa	2016	3,000 sq. km	Oil: 13%-onshore 12.5% - offshore Gas: 6% of domestic use, 7.5% of LNG exports	12% + 10%	35 %
16.	*Offshore South West Tano Block	GOSCO	2015	175 sq. km	Oil: 12.5% Gas: 10% of domestic use, 10% of LNG	12%+13%	35 %
17	*Expanded Shallow Water Tano	ERIN	2015	1,506 sq. km	Oil: 12.5% Gas: 7.5%	10% +10%	35 %
18.	Deep Water Cape Three Points	Exxon-mobil	2018	1,474 sq. km	Oil: 10% Gas: 5% of domestic use, 10% of LNG	15% +3	35 %

Source: Adapted and revised from ACEP Contract Monitoring Report, 2019 and the PC’s Petroleum Register.
*CAPI (Carried & Participating Interest); **CIT (Corporate Income Tax).

Enforcement of Petroleum Agreements

The PC has been weak in enforcing the obligations of companies under the petroleum agreements, but more successful in local content obligations. In particular, agreements with relatively high royalty rates and CAPIs have not be been meeting their obligations and the PC has flip-flopped in its threat to take the blocks away from them. In a 2019 Contract Monitoring Report, ACEP noted that just two companies whose initial phase period had expired had met their obligation. Some companies had not met their obligation and were given extensions because of the ITLOS case, whereas others did not have these complications but also got extensions. Out of the estimated $750m that was to be expended by companies whose initial exploration period had expired, less than 2 percent was expended. This issue of dormant agreements had become an important electoral issue for the then opposition NPP in 2016:

> ‘Ghana’s oil industry no longer attracts serious investors, despite the substantial de-risking of some of our oil basins. Inexperienced and unknown companies are holding exclusive oil rights in our basins, most of whom are not fulfilling their work obligations….This situation is the result of the lack of credible processes for ensuring a transparent and efficient allocation of exploration rights’ (NPP, 2016: 44).

Upon assuming office, the NPP government continued to raise these concerns and warned that operators who were unable to perform would lose their licences (Communication Bureau, 2018). Seven months after the president’s warning, the Aker Energy Group, who had bought the HESS Corporation’s interest in the Ultra Deep Tano Cape Three Points block, announced a significant find.[15] The president celebrated his government’s ‘aggressive’ approach to extracting oil with this cricism of the opposition NDC:

> ‘After many, many years of our looking and almost giving up, it took an NPP government to discover oil in 2007. In eight years of NDC administration, 13 oil block deals were signed, and not a single one was developed. The first one signed in 2017, under my government, which was Aker, has led to the second biggest oil discovery in Africa. Enough to make a believer of anyone’ (Akufo-Addo, 2019).

In spite of the warnings to sanction dormant companies, the PC under the NPP is yet to enforce its threats to withdraw licences. This strange episode of extension when minimum requirements have not been met led ACEP to conclude that this could not happen without political patronage (Boakye, 2019).

Where the PC has performed better has been in its enforcement of local content laws. Between 2015 and 2016, employment of locals increased from 4,905 to 11,320. For the 2016 figure, this included 1,132 senior management positions, 2,270 middle management positions, the rest being technicians, welders, sample catchers, etc. (Petroeum Commission, 2016: 35). Also, between 2010 and 2017, 4,000 contracts and purchase orders, worth $1.3billion, were awarded to indigenous companies. The value of services has been increasing steadily since 2010, from $152,494,890 to $434,317,840 in 2016. Ghanaian participation in contracts in Tullow and ENI is now

[15] https://www.graphic.com.gh/business/business-news/aker-energy-announces-oil-discovery-in-ghana.html (accessed 19 January 2021).

above 20 percent, but Ghana is still lagging behind in terms of technical skills development.

It is evident, however, that the PC still lacks key capacities. The OFD evaluation (Scanteam, 2014) identified the PC as 'most in need of rapid improvements to its capacities', three years after it was established, a point reiterated by an industry inside five years later:

> 'because they are not well versed in the technical aspect…so I think that they are a bit behind the learning curve so we are not getting the right value from their operations or from their regulatory functions'.[16]

The lack of technical capacity in some areas is shared by some industry watchers,

> 'From what I see, current PC arrangement is just to recruit people and not necessarily to perform the functions as PC should do. That's my private view'.[17]

To some respondents, the inadequate regulatory capacity has forced the PC to focus excessively on local content issues, which – while important – is only a relatively small aspect of its remit, but one where patronage is rife:

> 'if you don't have the technical capacity to do that, then you concentrate on the local content aspect – that is when politicians will come and see you and put pressure on you and let this contract go to Mr. X, let that contract go to Mr. Y.'[18]

It is not clear what the motives are behind this somewhat profligate recruitment in areas not considered as critical, beyond suggestions of nepotism. This focus on local content is partly a product of the incentives generated by competitive clientelism, given the opportunities for rewarding party supporters through employment and contracts.

Respondents also pointed to leadership as being important for the focus of the PC since its inception. Dr Kwabena Donkor, the first CEO of the PC, was more of a 'technopol', in that he was not just an energy expert but was also a senior politician within the NDC and thus focused more on the deal-making aspect of the PC, though the role was still limited. His successor, Theo Ahwireng, was viewed as a 'pure technocrat', whose focus on engineering capacity allowed him to play a more direct role in scrutinising the more technical aspects of the job, particularly reviewing programmes of development oil companies. The latest CEO is from a legal background and has focused mostly on compliance across a range of areas. That said, although each CEO has focused on aspects consistent with their background, they have all focused on local content.

[16] Interview, senior MoE official 2, 28 April 2019.
[17] Interview, GOGIG official 2, 25 April 2019.
[18] Senior MoE official 2, 28 April 2019.

As a new institution, the performance of the PC is impressive, despite the obvious shortfalls. As expected, the incentives generated by Ghana's competitive clientelist political settlement and ideas, sometimes restrained by countervailing forces like organised civil society, appears to have accelerated the process to put the necessary laws in place and operationalise a standalone regulatory institution. Despite the weaknesses observed in the PC's performance and the continuous reliance on the GNPC, it is increasingly weaning itself off the GNPC. Nonetheless, the analysis shows that, like the GNPC before it, it is vulnerable to the short-term imperatives of the ruling coalition under Ghana's competitive clientelist settlement.

5. GNPC as a focused commercial player

The rationale for separation was that GNPC could focus on commercial activities, even though it had for many years been the repository of knowledge and capacity in Ghana's oil and gas sector. Following GNPC's move to a free-standing NOC, we assess its performance and how this has been shaped by Ghana's political settlement dynamics. In summary, much of the benefit of separation has been undercut by politicisation of the NOC.

Following the commencement of commercial oil production in 2007, GNPC adopted a strategic goal of becoming a stand-alone operator by 2019 and a world-class operator by 2027*.* In 2012, in pursuit of this goal, the Corporation adopted an 'accelerated growth strategy', organised in a phased way. The first phase involved entering into joint venture/joint operator arrangements with world-class operators to achieve rapid transfer of operating capabilities. Thereafter, the Corporation sought to assume full operatorship, based on well-defined risk and opportunity assessments. GNPC is currently still in the first phase. In terms of its performance, we focus on its human resources, profitability and ability to negotiate contracts, before looking at how the politicisation of GNPC has compromised its effectiveness.

Human resource capacity building and profitability

Measured in terms of staff costs and strength, GNPC would seem to have made significant progress in building its capacity in the post-reform period. Its personnel costs have continued to rise substantially, presumably reflecting an increased human resource capacity and continuous efforts towards staff welfare. Between 2015 and 2016, there was a 38 percent increase in the cost of remuneration for technical and petro-business support staff. Actual staff remuneration costs rose from $10.23 million to $16.4 million, and staff cost as a percentage of the Corporation's total expenditure rose from 8.1 percent to 18.5 percent (Table 2). By the end of 2016, GNPC had a total of 307 staff, comprising 102 petro-chemical professionals, 157 petro-business professionals, and 48 support staff (GNPC, 2016a: 5) with its total workforce more than doubling between 2011 and 2017.

In the context of the general inefficiencies within the state-owned enterprises (SOE) sector in Ghana, the relative effectiveness of the GNPC is marked. In general, SOEs in Ghana consistently recorded net losses during 2015-2017 (Ministry of Finance, 2018: 16), whereas GNPC made a net profit of GH¢391 million in 2017, up from GH¢379 million and GH¢104 million in 2015 and 2016, respectively (see Table 3). As the 2017 SOE aggregate report notes:

Table 2: Trends in GNPC staff costs, 2011-2017

Year	Total expenditure (US$)	Staff costs (US$)	Expenditure as % of receipts	Staff strength
2011	207,964,303*	7,661,475		**175**
2012	169,275,711	9,013,162	3.9	**223**
2013	142,393,867.06	9,695,076.70	4.4	
2014	135,196,677.96	8,811,296.61	4.9	
2015	190,017,270.9	10,232,864.86	8.1	**289**
2016	144,528,143.16	16,403,758.50	18.5	**307**
2017	171,036,579.97	13,921,676.97	8.14	**367**
2018*	140,574,960.19	10,614,048.26	7.4	430

* This figure appears high because it is a combination of actual expenditure and commitments to projects for which expenses were yet to be made.

**Figures for January-June 2018 obtained from PIAC’s Semi-Annual Report for 2018.

Source: Compiled from PIAC’s Annual Reports and the reconciliation reports prepared by the MoF. Data on staff strength is compiled from ACEP (2013) and Ministry of Finance (2018).

> ‘The profits reported by the company [GNPC] translated into a 32.83% net profit margin. The current ratio of 4.36 indicates that the company has a very strong liquidity position and is capable of settling all its short-term liabilities’ (Ministry of Finance, 2018: 49).

With a net profit of GHC 526.12 million, GNPC was the most profitable SOE in Ghana in 2018.

It is important to note, however, that GNPC faces significant liquidity challenges, and thus still lacks sufficient capital to successfully explore for oil. As we discuss below, this problem is partly attributable to the Corporation’s lack of financial autonomy and its engagement in quasi-fiscal expenditures at the request of ruling political elites.

Table 3: GNPC’s financial performance on selected indicators, 2014-2018

Indicator	2014	2015	2016	2017	2018
Revenue	575	484	508	1,191	2285.62
Net profit	602	379	104	391	526.12
Total assets	2,470	2,984	3,529	4,703	4759.71
Current assets	1,250	482	875	1,538	
Current liabilities	298	68	321	353	
Total liabilities	722	856	1,576	2,392	2,476.25
Equity	1,953	2,128	1,749	2,311	2283.17
Ratios					
Net profit margin (%)	20.50	78.35	104.68	32.83	23.02
Return on equity (%)	5.33	17.8	34.41		
Current ratio	3.89	7.09	2.94	4.36	1.20
Gearing	0.81	0.40	0.41	0.70	1.06

Source: Ministry of Finance (2017, 2019).

GNPC’s capacity to negotiate good oil deals

There is some evidence to justify characterising the GNPC as ‘an efficient organization’, whereby its officials have historically ‘exhibited their skills and ability to get very good contract deals for Ghanaians’ (Kuma, 2011; see also Amoako-Tuffuor and Owusu-Ayim, 2010; Whitfield 2018). Some key informants, including those from IOCs, expressed confidence in the negotiation capacities of GNPC officials.[19] This capacity is reflected in the ‘very strong progressive increase in the national take’[20] and the improvements of the fiscal terms in Ghana’s oil agreements over time (see Hickey et al., 2015; 2020). In an assessment of the extent to which Ghana benefits from the oil sector, Abraham (2017) concludes that ‘Ghana’s contracts are not necessarily a bad deal although the State could have done better’ (p.208) and that holding only a 10 percent participating and carried interest is inadequate to allow any state to maximise its benefits from oil wealth. However, since 2013 – as Tables 1 and 4 show – GNPC officials have been able to negotiate Petroleum Agreements (PA) with much higher CAPIs. Examples of these include the agreements between AGM Petroleum Ghana Limited and GNPC’s Explorco, and the PA with Cola Natural Resources – both signed in 2013. According to PIAC, the AGM-Explorco PA gives Ghana and GNPC a stronger position in exploration and production than the country has held in past agreements, particularly by making GNPC a Joint Operator for the first time. The GNPC exercised a back-in option for an additional 5 percent of the OCTP exploration licence, thereby increasing its stake by 5 percent to 20 percent. Similarly, GNPC increased its total interest to 20 percent under a new PA negotiated with Vanco Ghana Limited and LUKOIL Overseas Ghana Limited. The new agreement also provided the GNPC and the GoG with ‘significant commercial benefits such as higher royalty, increased GNPC participation and vests ownership of associated gas in the State’ (PIAC, 2014: 8).

[19] Interview, 22 August 2014.
[20] Interview, Energy Ministry official, 29 August 2014.

Table 4: State take in Ghana's three oil fields

Oil field	Year of discovery	Royalty	CAPI	CIT
Jubilee	2007	5%	13.64%	35%
TEN	2009	5%	15%	35%
SGN	2012	7.5%	20%	35%

While Table 4 points to the general progression in the state's take in Ghana's oil fields, in addition gas from the SGN project is expected to help generate 1,100 MW of additional electricity. The Ghanaian negotiation team, led by GNPC, ensured that the security package is commensurate with the level of risk of the project and managed to secure a deal that would guarantee a supply of sufficient gas to generate at least 700 MW of electricity for close to two decades (PIAC, 2015: 9).

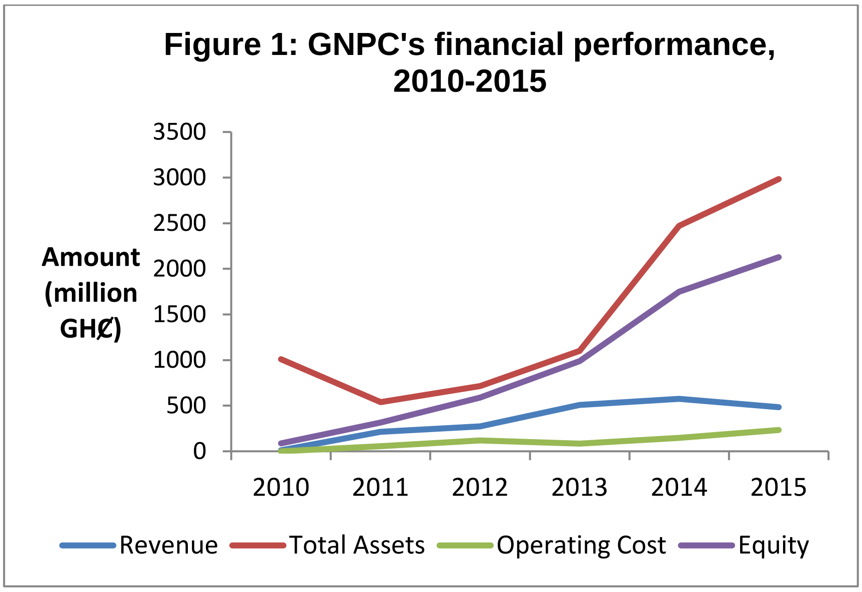
Table 5: Petroleum receipts (US$) on selected items, 2011-2019

YEAR	Royalties	Carried participating interest	Corporate income tax
2011	122,941,144	321,183,580	-
2012	150,642,450	390,428,872	-
2013	148,634,519	385,224,801	172,216,932
2014	192,660,810	499,330,322	284,546,191
2015	91,738,784	237,764,788	11,617,384
2016	57,851,210	149,936,375	29,546,823
2017	365,440,868	135,859,567	36,957,622
2018	265,606,240	548,334,881	160,606,804
2019	236,794,156	505,987,937	178,591,123.

Source: Compiled from annual petroleum receipts' reports produced by MoF.

Not surprisingly, government oil receipts have been increasing in importance, rising steadily from less than $US 500 million in 2011 to over $US1 billion in both 2013 and 2015 (Table 5). The largest proportion of these receipts comes from CAPI, which constitutes the share of the oil production owned by government. Although petroleum revenues from royalties and corporate income taxes declined substantially from 2014, due to the fall in oil prices and the decline in the Jubilee production, they bounced back in 2017 and 2018 (Ministry of Finance, 2017). One reason for the euphoria surrounding the oil discovery was the belief that it would help improve the country's external and internal balances. The petroleum share of exports has indeed skyrocketed since 2010 and, with the exception of gold, oil now constitutes the largest single item in Ghana's exports. Moreover, petroleum exports have since 2013 overtaken petroleum imports, suggesting that Ghana may now technically be viewed as a net-exporting petroleum country (Fosu, 2017).

The macro-economic importance of GNPC's activities for the Ghanaian state is shown in Figure 1, which points to the growth in the Corporation's total assets and revenues from oil. Of particular importance is the growth in GNPC's *equity*, which represents the 'value' of the Corporation to the Ghanaian government. GNPC's equity increased from about GH¢87 million in 2010 to over GH¢2 billion in 2015, while its total assets increased from a little of over GH¢1 billion to nearly GH¢3 billion during the same period. Due to its general profitability, evidence suggests that government has often turned to GNPC for support during moments of economic distress. For example, in the midst of the economic crisis that faced the NDC administration during 2013-2015, the government borrowed a total of US$153 million from GNPC (Attenkah, 2016). Between 2017 and 2019, the GoG borrowed a total of $289 million from the GNPC in support of other government agencies (Kasapa FM, 2019).



Source: Authors, based on GNPC's annual financial statements, various years. These reports have not been published in the last four years.

Politicisation and GNPC's effectiveness

> 'The biggest problem facing GNPC is the over politicization of that institution' (Steve Manteaw, 9 April 2019). [21]

Government interference in NOC commercial or operational decisions can negatively affect organisational performance. GNPC faces a 'huge problem of political capture',[22] due mainly to excessive governmental control over personnel matters, especially with regards to the appointment of the Corporation's top management. Members of GNPC's highest governing body (which comprises a seven-member board of directors and a chief executive officer), are presidential appointees, all of whom stay in office at the pleasure of the President. Within the context of Ghana's competitive clientelist political settlement, political loyalty often takes precedence over technocratic expertise, with the result that appointments into critical areas of governance and the economy,

[21] See 'Party financier and chairman heading GNPC "unreasonable"', Steve Manteaw, 9 April 2019. Available at: https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Party-financier-and-chairman-heading-GNPC-unreasonable-Steve-Manteaw-641491 (accessed 19 January 2021).
[22] GOGIG official 1, 16 April 2019.

including the CEO and board members of GNPC 'are reserved for political associates instead of qualified and experienced technocrats' (Abraham, 2017: 203-204).

In a recent comparative study, Marcel *et al* (2019: 68) identify political interference in recruitment and decision-making processes in GNPC as a 'common' problem and 'a highly disruptive factor' that often results in 'the revisiting of strategies and plans' leading to 'confusion within the company'. We find that a significant number of junior and middle-level positions are also based on political connections. As one PIAC member stated:

> 'Have you ever seen a GNPC job advert in the newspapers? ...You will not find anything. But they are always recruiting; it is through political patronage'.[23]

There appears to be a direct relationship between the appointment of political cronies at the top and the manner in which many junior-level staff are recruited. As one MoE official explained, 'once a political person comes here and is aligned, there is an attraction of all political stakeholders', who now look unto such appointees for jobs in the Corporation which remains 'one of the well-paid institutions' in the country.[24] In this context, GNPC has been vulnerable to the 'insiders dilemma'. where members of elite and patronage networks who attain higher positions tend to have stronger incentives for using their positions for patronage purposes in order to consolidate their positions in the party (Roll, 2014: 197). However, our evidence suggests that in GNPC, extensive patronage systems coexist with merit-based career systems (Grindle, 2012: 18), so that patronage-based access to jobs is not always at the expense of competence. For example, a highly placed finance ministry official told us that despite having worked very closely with two of GNPC's CEOs, he has tried, unsuccessfully, to secure a job there for two people.[25]

One respondent noted that even in periods when technocrats were appointed to the position of chief executives, as with the administrations of Alex Mould and Nana Asafo Adjei during the NDC regimes (2009-2016), their performance tended to be constrained by the politically appointed board of directors. For this respondent,

> 'the composition of the Board is a major problem. For all this while, we don't have a Board that is technically biased; we just bring politicians and put them there [and] they are always limiting the performance of the CEOs'.[26]

As another respondent echoed this:

> 'Today what do we have [in the Board]? We have chiefs just because the oil was found in their region. We have political appointees just to score some

[23] PIAC focus group discusión, 2 May 2019.
[24] Senior MoE official 1, 17 April 2019.
[25] Interview, senior Finance Ministry staff, 26 April 2019.
[26] Interview, Senior MoE official 1, 17 April 2019.

> political equation somewhere. So are they appointed on merit? …. To me, it is a problem'.[27]

Following the discovery of oil in 2007, chiefs from the oil-rich Western region have been appointed to serve on GNPC's board of directors. An informal political consensus has emerged that traditional rulers from the oil-rich Western region be appeased through representation within the GNPC board, which goes back to the beginning of production, when chiefs from the region petitioned parliament to demand that their indigenes be represented in all oil sector institutions. While this petition was formally rejected, our evidence shows that it has continued to have some influence in the governance of the oil sector.

The consequence of these appointment patterns is that some board members are just incompetent, whilst even the most technically competent ones tend to lack independence of thought, enabling the presidency to steer the direction of decisions within the Corporation.[28] As a result, GNPC tends to lack sufficient operational and financial autonomy. As one industry observer recently noted, 'it appears to me that GNPC is being treated as [an] extension of the NPP bureaucracy'.[29] Such observations are supported by the president's appointment of a known party financier as the CEO of GNPC and the incumbent national chairman of the ruling party as the board chair.

When the appointments of these leading party people were announced, some industry players predicted, and rightly so, that such appointments would undermine the national interest.[30] Indeed, barely a year after the new leadership assumed office, a power play between the CEO and the board chair had set in, leading to public confrontations between the two. In a memo copied to the MoE and the presidency in February 2019, the CEO accused the board chair of usurping his powers and putting 'undue stress' on his administration by fostering 'parallel authority' within GNPC (Sarpong, 2019: 2). The CEO reminded the board chair that his 'role as Chairman of the Board does not extend to executive functions including the recruitment of employees' (ibid.). In response, the board chair accused the CEO of a 'very personalized and dysfunctional management style' (Blay, 2019: 2). This interpretation was contested by the CEO, who noted his preference for using competitive bidding in the recruitment process, as opposed to the board chair's interest in recruiting a procurement manager through sole sourcing (see Sarpong, 2019); a point supported by some of our interviewees.[31]

[27] Senior MoE official 2, 28 April 2019.
[28] Senior MoE official 2, 28 April 2019.
[29] Statement by Dr Steve Manteaw, chairman of the Public Interest and Accountability Committee and co-chair of the Ghana Extractive Industry Transparency Initiative. See *The Chronicle*, 18 February 2019, 'GNPC is being mismanaged … PIAC says Ghana risks going to HIPC'. Available online: https://www.peacefmonline.com/pages/local/news/201902/375706.php (accessed 15 February 2021).
[30] PIAC focus group discussion, 2 May 2019.
[31] PIAC focus group discussion, 2 May 2019.

In interviews, procurement corruption was highlighted numerous times as the source of the conflict between the GNPC Board Chair and its CEO:

> '…as you may know, procurement is a way of rewarding people who have worked very hard in parties'.[32]

> 'We have allowed politics to permeate deep into the industry, especially where contracts are concerned. So if you have upper hand on the board, you will see to it that contract "A" goes to this company which is aligned to Mr "X''.'[33]

For another close industry observer, this problem has been driven mainly by a party chairman who has been concerned about

> 'mobilising resource to support the party. Next year is an election year. So, for them, a function like procurement is one of the most important ways that resources can be mobilised …. In GNPC, procurement is everything and if you need to raise finances for a party, of course, that is the avenue through which you can raise such money.'[34]

It is clear that this factional politics has undermined the performance of the GNPC, including the potential of making the Corporation unattractive to potential investors (Institute for Energy Security, 2019). Throughout GNPC, staff loyalty became divided between those who support the board chair and those seen to back the CEO, with apparent adverse consequences for organisational performance. As one respondent noted, this will

> 'affect productivity, because you now have two powerful people with staff aligned to each of them; either you belong to the board chairman or you belong to the CEO. So it becomes difficult, as CEO, to galvanise the staff to achieve a common purpose'.[35]

Despite 'an uneasy calm'[36] between the two leaders, the continuous competition for influence between the two has undermined organisational effectiveness and GNPC's reputation with IOCs. As one GNPC insider noted, 'What is the industry's attitude towards GNPC? It has gone down because it has introduced some inertia'.[37]

Politicisation and the purge of technocrats

Although Ghana has been praised for its peaceful turnover of governments, what is often overlooked is that the transition always entails changes in economic policy and replacement of technocratic personnel in state-owned enterprises in ways that

[32] Interview, GOGIG official 1, 16 April 2019.
[33] Interview, GNPC official 2, 28 April 2019.
[34] Interview, GOGIG official 2, 25 April 2019.
[35] Interview, MP and Minority Spokesperson on Mines and Energy, 28 April 2019.
[36] PIAC FGD, 2 May 2019.
[37] GNPC official 2, 28 April 2019.

undermine bureaucratic capacity (Abdulai and Mohan, 2019). In the context of the oil sector, Skaten (2018: 14) notes, 'The continued overhaul of state-owned corporations every 8 years limits the long-term technical and financial prospects of Ghana's petroleum corporations'. In GNPC, CEOs are to be appointed for a period of five years, subject to another five-year renewal. In practice, their tenure has become coterminous with presidential tenures.[38]

What is particularly problematic is that such changes in personnel are not restricted to the positions of the CEO and board members, but also some senior management positions who are removed primarily because of their perceived party affiliation. A leading oil sector technocrat noted that, following the recent transition from the NDC to the NPP in January 2017, personnel changes within the GNPC also involved

> 'some top management staff who are not perceived to be belonging to that party. So what happens to all the plans and policies that were being driven by these management staff? The national oil company cannot be played like a political football. It doesn't augur well for continuous development.'[39]

In highlighting this problem of politically driven staffing changes, respondents regularly cited the experience of Thomas Manu and Kwame Ntow, who were recently pushed out of the Corporation. In August 2016, under the NDC government, GNPC promoted Manu and Amoah to the rank of deputy chief executives (GNPC, 2016b). In May 2017, they were reassigned to the Ministry of Power and Petroleum as technical advisors and our research revealed that it was the new CEO of GNPC who caused their removal, with the support of the newly constituted board.[40] This development attracted criticisms from Steve Manteaw, chairman of the PIAC, who described it as a 'tragedy', and in interviews he reiterated that 'If you really want to become an operator, you don't throw away your bests for political reasons'.[41] With these developments, the NPP government repeated history in decimating the human resource capacity of the GNPC in the name of restructuring, just as it did when the party assumed office in 2001 (see Hickey et al., 2015). These interparty political rivalries reflect competitive clientelism in Ghana, where regime changes often result in a purge of the public service (Ayee, 2013).

Quasi-fiscal expenditures and the politics of policy discontinuity

One major consequence of politicians rather than technocrats managing the GNPC is that they can use the Corporation's resources for various quasi-fiscal expenditures, often upon request by the Ministry of Finance. Since the commencement of commercial oil production, 'GNPC has engaged in several quasi-fiscal expenditures and transactions' (Ghana Extractive Industry Transparency Initiative, 2018) with other state-owned enterprises. For some observers, GNPC has essentially 'become a

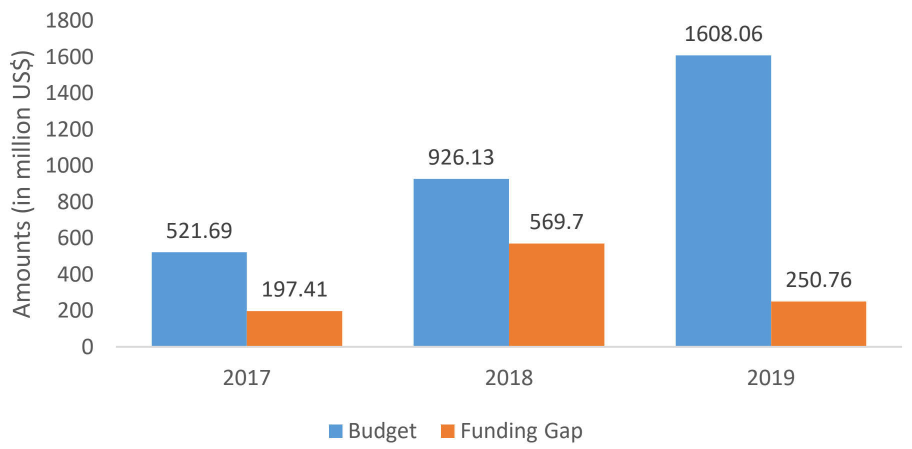
[38] Interview, MP and Minority Spokesperson on Mines and Energy, 28 April 2019.
[39] GNPC official 2, 28 April 2019.
[40] PIAC focus group discussion, 2 May 2019.
[41] PIAC focus group discussion, 2 May 2019.

second-tier government, financing projects …. that should ordinarily be financed by national budget' (Sakyi, 2019).

For example, in 2013, GNPC used US$31 million of its share of oil revenue to repay a loan facility taken from PNB Paribas – a loan which was incurred by the GoG in respect of oil lifting since 2009. The same year, GNPC made an advance payment of US$50 million to the Ministry of Finance without any written formal agreement as to when and how the money would be paid back to the Corporation. It was the 2014 auditor general's report that first drew attention to this, and which was subsequently picked up by the PIAC and the Ghana Extractive Industry Transparency's Initiative (GHETI). The 2017 PIAC annual report notes that this amount remains unpaid to date, stating further that 'The absence of a duly executed agreement between the parties and the outstanding amount, creates the unfortunate impression that GNPC's funds are being used for quasi-fiscal expenditures' (PIAC, 2018: 6).

In interviews with a senior Finance Ministry official, we were told that this 'loan' was repaid during the second half of 2018.[42] However, this narrative was debunked by PIAC's official, who argued that the ministry only included this payment in its 2019 budget in order to improve Ghana's ratings in the EITI. Once the assessment was over, the MoF ordered GNPC to expunge the said amount from their books[43] (see also PIAC, 2019: 96). For a company that has almost always had significant funding gaps vis-à-vis its annual budget (See Figure 2), the impact of such quasi-fiscal expenditures is

Figure 2: GNPC's annual budgets and funding gaps, 2017-2019



Source: Authors, based on PIAC annual reports.

evident. Since then, there is some evidence that such quasi-fiscal expenditures are on the rise, with GNPC making 'several payments and guarantees to a range of entities' in 2019 (PIAC, 2020: 83).

[42] Senior Ministry of Finance official, 26 April 2019.
[43] PIAC focus group discussion, 2 May 2019.

In addition, through the GNPC Foundation, the Corporation’s Corporate Social Investment (CSI) arm, headed by a former deputy youth organiser of the ruling NPP, the GNPC has been undertaking CSI expenditures that observers note are ostensibly meant to influence presidential election outcomes (Luv FM 2019). Importantly, the 2019 budgetary allocation for the GNPC Foundation included allocation of some $10 million for a number of vague expenditure items, such as advisory services, sports, special community initiatives and SME support (GNPC, 2019: 18). This budget also included some largely consumption-driven expenditures, as with the allocation of $600,000 for rehabilitating the offices of the National House of Chiefs (ibid.:19).

Table 6: GNPC’s selected expenses (US$ million)

Year	Total petroleum revenues	GNPC’s share of oil revenues	GNPC’s share as % of total	GNPC’s equity financing	Cost of exploration and development projects
2011	444.12	207.96	46.83	132.48	
2012	541.62	230.95	42.64	125.82	
2013	846.77	22.32	2.64	76.27	
2014	978.02	180.71	18.48	47.41	
2015	396.17	126.86	32.02	95.48	17.32
2016	247.18	88.6	35.84	67.21	25.58
2017	555.33	182.04	32.78	103.75	19.07
2018	977.09	305.27	31.24	149.72*	32.24
2019	925.04	260.56	28.17	164.79	

Sources: Compiled from the Annual Reports on the Petroleum Funds published by Ministry of Finance, 2011-2019.

Such quasi-fiscal expenditures have important implications for GNPC’s capitalisation. GNPC’s share of annual oil revenues has in most cases been insufficient to cover its equity financing requirement and expenditure on other exploration and development projects. As Table 6 shows, in 2016 GNPC was allocated US$ 88 million of total petroleum receipts, although its actual cost on development projects and the Jubilee equity financing amounted to some US$93 million. This means that the NOC had to rely on loans and its cash reserves, which had been earmarked for some milestone projects, to fund other important expenditures, such as staff costs, and general operational and administrative expenses. The combined effect has been that at the end of 2019, various observers assessed GNPC to be off-track in achieving its overarching strategic goal of becoming a ‘stand-alone operator’ (see PIAC, 2020: 85-6; Sakyi, 2019).

One important reason for this slow progress towards operatorship has been the lack of policy continuity following the political transition that occurred in Januay 2017. A key vehicle through which GNPC sought to become a stand-alone operator was through the GNPC Exploration and Production Company (Explorco), which was established as a subsidiary to focus on exploration and production. The establishment of Explorco was borne out of GNPC's aspiration to grow its interests and participation in exploration and production activities, in order to be able to attain the goal of becoming a world-class operator in 15 years. This ambition was to be attained by taking on measured commercial risks in selected blocks through Explorco and building operating capability by jointly operating selected oil blocks with world-class operators. By the end of 2016, Explorco was jointly exploring eight oil blocs with seven international oil companies, with a participating interest of as much as 25 percent in the Expanded Shallow Water Tano Oil Block.

Following the political transition in 2017, however, the new NPP government reversed course on using Explorco, and the Company is now 'virtually dead',[44] or is, at best, 'in abeyance'[45] – an assessment shared by other researchers (Marcel et al., 2019). Interviewees felt that this development has had significant adverse implications for GNPC's long-term vision of becoming a commercially independent oil company. For example, one respondent noted that:

> 'you see, it will only be on course when have consistency in your work programme and strategy. As we speak, it looks like the entire strategy that was in place has gone under drastic review … and there has been a lot of changes in various positions and all that.[46]

Importantly, the NPP government's lack of interest in Explorco had little, if anything, to do with party ideological differences and was primarily a reflection of the incentives generated by competitive clientelism in Ghana, whereby 'the imperative of winning elections has sometimes resulted in a layering of new priorities onto existing development strategies for the party in office to show its imprint' (Resnick, 2016: 23).

6. Conclusion

At the start of commercial oil production in Ghana, transnational actors, comprising donors and INGOs urged the GoG to strip the national oil company from its *de facto* regulatory functions and allow it to focus on commercial hydrocarbon operations, while the newly created PC took up responsibility for regulating the upstream oil sector. The new institutional arrangements in Ghana's oil sector that resulted in the establishment of the PC have some potential to enhance oil sector governance in Ghana, which is summarised in Table 7. In the case of the PC, it was created in a environment in which GNPC held a great deal of technical capacity. The PC has been effective in the putting in place relevant subsidiary legislations needed to enforce compliance and in the relatively straightforward area of promoting local content, which also provides avenues of patronage to party supporters. The PC has not moved fast enough to secure the necessary technical personnel to enable its autonomy from the GNPC that the Commission is expected to regulate. Although efforts are now being made to address

[44] GNPC official 2, 28 April 2019.
[45] PIAC focus group discussion, 2 May 2019.
[46] PIAC focus group discussion, 2 May 2019.

this persistent weakness, there remain important concerns that the politicisation of recruitment and appointment will continue to work to undermine these efforts.

Table 7: Performance indicators on the new institutional arrangements

Dimension of governance	**Level/type of performance**	**Indicators/evidence base**	**Notes**
How were the ‘best-practice’ reforms adopted?	• A balance of domestic commitment and external pressure and advice	Dates of key laws – 2011-2016 Advice from OFD and WB in particular. Various donors supported The Platform, which was crucial during legislative drafting and for PIAC.	Reforms and other legislation developed only after first oil. Seen as example of ‘good practice’ and alignment of domestic civil society pressures and donors.
Have the new rules been enforced?	• Largely, but with ongoing resistance and only established after production started and some deals made.	Both PC and reformed GNPC in place. GNPC retains de facto control of some areas of technical expertise and has own data repository.	Separation has occurred and PIAC is added innovation to ensure probity. In practice, GNPC fighting in subtle ways to hold on. Both PC and GNPC politicised by rival parties.
Capacity-building of oil entities? ***GNPC***	• Mostly resourced	Staffing levels recovered after decimation of early 2000s.	Capacity building largely domestic issue. GNPC allowed to expand rapidly under NDC re staffing and budget. Some commercial ambitions thwarted by NPP (Explorco). Appointments increasingly politicised and delinked from merit.
Capacity-building of oil entities ***PC***	• Mostly resourced	Staffing levels were initially low but now adequate for some areas, but questions about capability of some staff and nature of recruitment process.	PC performance lauded by internationals but more mixed when subject to scrutiny (e.g. does well with passing laws but not enforcement; strong on local content due to rents/political interests). Good on data re data repository and Dept of Fiscal Metering. Recruitment has been politicised.
Capacity-building of oil entities? ***PIAC***	• Partially resourced	Initially lacked resources and staff and, crucially, access to data with which to hold actors to account. Now better resourced but enforcement is negligible.	PIAC viewed as an important innovation in terms of oil sector governance. Capacity has grown but highlights inconsistencies without being able to demand a response.

Autonomy of PoEs I ***GNPC***	• Some interference	Seen as PoE in 1980s and 1990s but weakened in 2000s.	
Autonomy of PoEs II ***PC***	• Merit/loyalty largely balanced	Board is composed of political appointees, so lacks adequate technical expertise. Recruitment to lower-level posts also governed to an extent by nepotism.	Board can make political decisions, as opposed to commercially minded ones.
Is there a strong mechanism in place to ensure that the sector is coordinated effectively?	• Mechanisms in place but rarely effective	E.g. inter-ministerial working group that meets regularly and has the power to discipline/shape organisational behaviour? Strong minister or PS?	Please note if mechanisms are largely formal and/or informal – e.g. the formal mechanism in Uganda is largely moribund but informal working arrangements and personal relationships developed within PEPD have helped the new entities function coherently at times.
Regulatory performance	• Medium	Is regulator committed to and capable of holding IOCs to account for PSA agreements etc.? E.g. on agreed expenditures?	
Performance on regulating cost recovery claims from IOCs?	• Partially effective	Progress against targets. Cost recovery price per barrel of oil (+/- $1)?	
Project performance	• Mostly	Are planned projects being delivered on schedule?	Deals are accessible online, although some processes remain closed amidst suspicions of collusion. Govt is failing to hold oil companies to account for non-development of most blocks, e.g. failed to meet minimum expenditures. Ghana gets a reasonable take and most deals remain intact. Recent deals not as strong re government take. GNPC would prefer to move more slowly, get better deals but govt wants progress.
Revenue generation	• Medium	Please specify whether this is from taxation or productive activities	Oil production ongoing. Revenues generated and allocated. PC financially sustainable by 2017.

			GNPC makes net profit over 2015-2017, unlike other SOEs, and contributes significantly to government revenues.
Level of public investments enabled, due to resources generated in the oil sector	• Medium	Revenue raised, energy security, productive investments made (budget data). Increased allocations to social sectors (budget data). https://www.resourcedata.org/	Some of these have been within the sector, others beyond; evidence of quasi-fisacal expenditure.

GNPC’s capacity has ebbed and flowed following its formation in the early 1980s, but it is regarded as a relatively high-capacity organisation. It remains central to oil production in Ghana and has sought to extend its expertise and operating remit through the establishment of exploration and gas-processing subsidiaries. Yet, its centrality to securing political power means that it has been at the centre of coalitional politics between the two dominant political parties. High-level appointments are driven more by partisan political considerations than merit, and the Corporation’s resources are increasingly being used for quasi-fiscal expenditures, even as it struggles to meet its own budget with internal resources. With this growing level of politicisation, the attainment of GNPC’s vision for full operatorship has been much slower than desired.

As we noted at the outset, Thurber et al.’s (2011) findings suggest that countries with strong institutional capacity and competitive political systems present the best environment for formally separating policy and regulatory functions from commercial ones and where these conditions do not hold, then performance is likely to suffer. Ghana is something of a paradox. It has the competitive political system – indeed it could be argued that it is too competitive – but the institutional capacity is patchy, which undermines regulatory effectiveness as well as commercial savvy. In addition, given the competitive clientelism of the political settlement, even those institutions that are relatively effective are politicised through appointments, recruitment more broadly, and, in the case of GNPC, in being used to fund extra-budgetary expenditure. It is precisely these features of the political settlement which compromise the efficacy of the institutions of oil sector governance. There is thus some support here for Thurber et al.’s (2011: 5,366) observation that:

> ‘Countries with vibrant political competition but limited institutional capacity pose the most significant challenge for oil sector reform: Unitary control over the sector is impossible but separation of functions is often difficult to implement’.

That said, Ghana’s relatively strong institutions and range of actors of accountability temper the patronaged-fillled system (Oduro et al., 2014), which explains the push to grow the sector, make good deals and to largely respect the rules.

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