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AN OPPORTUNITY TO MITIGATE CORRUPTION:

The Role of Civil Society and Legislation in Promoting Transparency in the Lebanese
Oil and Gas Sector

By

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ABSTRACT

This thesis aims to contribute to the literature on transparency in the oil and gas sector in Lebanon. It examines the role of Civil Society Organizations (CSOs) – namely, the Lebanese Oil and Gas Initiative, Lebanese Transparency Association-No corruption, and Lebanese Center for Policy Studies – in mitigating corruption risks. It also studies the key petroleum legislation related to countering corruption, and discusses the debate pertaining to the establishment of a National Oil Company and a Sovereign Wealth Fund. While the Oil and Gas sector can be a savior of Lebanon’s socioeconomic crisis in the long run, it can also be a resource curse and lead to further corruption if not well-managed. The thesis concludes that building a transparent sector requires the government to establish an overall vision for the petroleum sector, develop policies related to the technical and financial management sides, and accentuate the monitoring role of CSOs against corruption and mismanagement.

Keywords: Transparency, Civil Society Organizations, Corruption, Legislation, Oil and Gas

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ABBREVIATIONS AND ACRONYMS

CSOs- Civil Society Organizations

CPI- Corruption Perception Index

EITI- Extractive Industries Transparency Initiative

GDP- Gross Domestic Product

LCEI- Lebanese Coalition for Good Governance in the Extractive Industries

LCPS- Lebanese Center for Policy Studies

LOGI- Lebanese Oil and Gas Initiative

LPA- Lebanese Petroleum Administration

LTA- Lebanese Transparency Association- No Corruption

MoEW- Ministry of Energy and Water

MP- Member of Parliament

NOC- National Oil Company

NRGI- Natural Resource Governance Institute

OMSAR- Office of the Minister of State for Administrative Reform

OPRL- Offshore Petroleum Resource Law

SWF- Sovereign Wealth Fund

CHAPTER ONE

INTRODUCTION

1.1 INTRODUCTION

In 2010, the Lebanese Parliament passed the Offshore Petroleum Resource Law (OPRL) (Law no. 132/2010), establishing a petroleum sector in Lebanon, and moving the country a step closer to producing natural gas. While it is impossible to estimate the size of petroleum resources before drilling, the Ministry of Energy (2014) has claimed that the Lebanese shore of the Mediterranean Sea has around 25 trillion cubic feet of natural gas (International Energy Agency, 2014) and an estimated 865 million barrels of oil reserves. Although yet unproven, and the process from licensing to production needs at least seven years to generate revenues, nevertheless this amount constitutes some 0.36 % of the world's resources, enough to contribute to local development across many sectors if well managed (Lebanese Oil and Gas Initiative, 2017). While the OPRL law covers only offshore exploration and production activities, the Lebanese Parliament has drafted an onshore petroleum exploration law which draws back on the French mandate's petroleum exploration legislation in 1926. This law, however, has not been agreed upon amongst political leaders, and thus has not been passed yet by Parliament.

Lebanon is one of the world's most energy import-dependent countries, where it spends around 15% of its GDP on fuel imports (CEDRO, 2015). This is due to the widespread use of generators as a result of electricity cuts, as well as the abundant use of

fuel cars. Acknowledging the fact that it is not possible to estimate the size of petroleum resources before drilling, some have claimed that Lebanon's gas resource revenues are estimated to be between \$125 and \$480 billion, while oil resources vary between \$32 and \$48 billion (BankMed, 2014). If well managed, this sector could be a potential driver for development. However, in a country where corruption is entrenched in frail public institutions, transparency is a pillar to ensuring better development and effectively holding the government accountable for resource revenues.

In December 2017, the Council of Ministers approved awarding exploration and production to a consortium composed of Total (France), Eni (Italy), and Novatek (Russia). While the oil and gas industry produces many opportunities for the producing state, including economic development, infrastructure improvement, and nation-wide cooperation, it does, however, need strong political institutions, which Lebanon lacks, to manage the sector and its revenues, and address challenges such as maritime border disputes, environmental risks and mitigating the risks of corruption to avoid turning the 'black gold' into a curse. This thesis explores the role and impact of civil society organizations in promoting transparency in the oil and gas sector in Lebanon. It examines how watchdog organizations have utilized the Extractive Industries Transparency Initiative (EITI), and how the recently passed law of 'Strengthening Transparency in the Petroleum Sector' (Law 84/2018), can affect the performance of the Lebanese Petroleum Administration (LPA) and the Ministry of Energy and Water (MoEW) in mitigating the risks of corruption in the oil and gas sector.

1.2 RESEARCH QUESTION

The main research question guiding this thesis is: What is the impact of CSOs on enhancing accountability and transparency in the oil and gas sector in Lebanon? What are the measures that have been taken to reduce corruption risks in this sector?

There is limited research on the petroleum sector in Lebanon and its potential in serving the state's prosperity due to its recent discovery and thus sector establishment. The timing of this thesis is of vital importance, given that it was written after the 2018 parliamentary elections, held after a hiatus of nine years. Both cabinet and the newly-elected Parliament are operating under the stress of a severe economic crisis; and both assume that the energy sector is part of the solution for Lebanon's economic problems. In addition to answering the aforementioned research question, this thesis hopes to contribute to awareness and understanding of the importance of the emerging oil and gas sector, and how the role of CSOs complements and enhances the public sector's performance to ensure a solid progress and overcome challenges.

1.3 METHODOLOGY

Since the oil and gas industry in Lebanon is a nascent sector, there is a dearth of in-depth resources related to it. The abundance of information, however, lies in studies published by international organizations such as Natural Resource Governance Institute (NRGI) and Transparency International, as well as policy briefs by Lebanese Center for Policy Studies (LCPS) and Lebanese Oil and Gas Initiative (LOGI). Also, research papers on mitigating corruption in the oil and gas industry in Lebanon will be used to highlight

the vital role of CSOs in ensuring transparency for the optimal benefits of this sector to Lebanon's development.

To answer the research question, this thesis searches for the impact of CSOs on the transparency of the petroleum sector in Lebanon by examining CSOs' advocacy efforts and activities, as well as the political parties' aspired gains from the sector through analyzing published party platforms, comparing different drafts of the Transparency in the Oil and Gas Sector law, and looking at possible coalitions between sectarian political parties and CSOs through studying common interests and patterns of interaction between one another. One possible testable hypothesis for the research may be stated as follows: does participation by civil society coalitions in public policy debates pertaining to oil and gas lead to the political elite's adoption of better policies and a more transparent institutional oil regime?

The research utilizes a qualitative methodology consisting of secondary sources supported by semi-structured interviews with experts in the field, stakeholders, and government officials. Academic journals and publications, books, and policy papers pertaining to the oil and gas sector development were thoroughly examined. Semi-structured interviews were conducted with stakeholders – such as the Minister of Energy and Water in Lebanon's government of December 2016, MP Cesar Abi Khalil, a board member of Lebanese Petroleum Association, and Lebanese Members of Parliament in the Public Works, Water, and Energy committee directly concerned with drafting and legislating oil and gas related laws, including MP Nazih Najem, MP Georges Okaiss, MP Henry Helou, and former MP Nawaf al Moussawi. Other subjects interviewed are oil and gas project managers in INGOs including Publish What You Pay (PWYP), Westminster Foundation for Democracy (WFD), and NRGi who are working closely with government

officials on capacity building and sharing international best practices, as well as engaged partner organizations who were part of the Lebanese Coalition for Good Governance in the Extractive Industries (LCEI), including Lebanese Oil and Gas Initiative (LOGI) and Lebanese Transparency Association-No Corruption (LTA). Experts in the field, such as Laury Haytayan, Rabih Yaghi, Mona Sukkarieh, Jeremy Arbid, and staff at the Lebanese Center for Policy Studies (LCPS) were also interviewed.

The target population of this study are oil and gas industry stakeholders, governmental institutions, INGOs, and CSOs working in the field, who were identified as a result of the literature review, in-depth research, and recommendations of interviewees. Interviewees including INGOs, CSOs, experts, and government officials previously mentioned were contacted directly for interview scheduling. Despite their busy schedules, Members of Parliament in the Public Works, Energy, and Water Parliamentary Committee, and the Minister of Energy and Water were easily accessible and showed great interest in discussing the subject matter. The Lebanese Petroleum Administration proved the hardest to reach; it took the longest time to respond, but I was able to ultimately arrange a meeting one month later with one of its members, Gaby Daaboul, who personally responded to my request and apologized for the delay. Interviews were conducted over a period of five months, from October 2018 through February 2019.

An informed consent process was conducted with all those being interviewed for this research' purposes, to avoid any ethical problems. The informed consent and research purpose was clearly articulated to each and every interviewee, who in turn, had the chance to ask questions, share concerns, or even withdraw prior to starting the interview. Interviews conducted by myself were semi-structured, and mostly face-to-face except two were held through Skype. The challenge was not only in reaching out to stakeholders to

secure interviews, but also ensuring that conversations are refocused on specific questions whenever needed, as interviewees tend to digress from the topic to discuss political views, and in some cases, inquire about my personal and political background. Some interviewees, particularly those who I met for the first time for purposes of this research, were reluctant to share much information and personal opinions, and preferred to abide by their institution's formal, public position. This was an indicator of the awareness of stakeholders to this sector's future prospects, thus their aim to exhibit a professional and credible public image. It is also worth noting that throughout the interview process, I learned that this sector is highly susceptible to sectarian "pie-sharing", and that members of the political elite are proactively trying to secure their share in it. CSOs, on the other hand, exhibit a lack of coordination amongst themselves, which will be further discussed in the chapters of this thesis. Interview data was filled out through pen and paper and entered into Google Forms post-interview, which was then generated into an excel sheet and saved on Google Drive. After the data collection phase was over, the data stored was reviewed, cleaned, and analyzed. Primary and secondary data collected was used to draw findings and link to different concepts and theories. The research employed an inductive approach to analysis of the data, particularly a narrative analysis.

1.4 MAP OF THESIS

This thesis is divided into five different chapters. The next chapter reviews the literature and the main arguments on sectarianism and the power-sharing formula, corruption, and the oil and gas sector in Lebanon, in addition to the literature on CSOs' work in Lebanon and EITI. Chapter three discusses the role of CSOs in promoting

transparency in the oil and gas sector, while chapter four discusses the policy options to reduce corruption risks in the oil and gas sector. Finally, the conclusion spells out the theoretical and policy implications of this thesis.

CHAPTER TWO

THE BATTLES OF A NASCENT SECTOR: SECTARIANISM, POWER-SHARING, AND CORRUPTION

2.1 INTRODUCTION

Despite the potential importance of the oil and gas sector on Lebanon's economic well-being, the literature on the subject matter remains limited. This chapter delves into the pertinent literature to examine the role and impact of civil society organizations on the oil and gas sector, and the importance of transparency in this sector. It opens by locating the discussion in its proper theoretical and institutional context: namely, Lebanon's postwar power-sharing arrangement and its propensity to invite corruption. The chapter then examines the various forms of institutionalized corruption in the Lebanese state, and discusses the precautions taken to avoid the spillover to the nascent oil and gas sector by both governmental and CSOs efforts.

2.2 POLITICAL CONTEXT, SECTARIANISM, AND THE POWER-SHARING FORMULA

According to Arend Lijphart (1969), consociational democracy is a "government by elite cartel designed to turn a democracy with fragmented political culture into a stable

democracy” (p. 216). The basic features of consociational systems are government by grand coalition, mutual veto, proportionality as a principle of representation, and a high degree of autonomy. Such a power-sharing system hardens sectarian divisions yet guarantees representation of all or almost all constituent sects. However, “by binding Lebanese to their sectarian/political patrons and clientelist networks...the political economy of sectarianism operates in such a way as to sabotage experiments in non-sectarian forms of political mobilization and organization, forcing most Lebanese to privilege their sectarian identities” (Salloukh et. al., 2015: 7). Consequently, any analysis of the significance of the oil and gas sector in Lebanon, and the possibility for civil society organizations to enforce the implementation of the access to information law, must be placed in the context of the Lebanese political system’s clientelist infrastructure. Clientalism and the sectarian-based system are entrenched in every aspect of governance, for as Salloukh et. al (2015: 12) argue, the clientelist system plays a primary role in the “production and reproduction of sectarian identities” in postwar Lebanon.

Although most Lebanese assume sectarian identities as historical givens, sectarianism is in fact a rather recent, modern creation (Salloukh et. al., 2015: 12). The historical origins of sectarianism in Lebanon dates back to the upheavals of 1839-40 in Mount Lebanon, when a “commoner rebellion against feudal lords overlapped with Ottoman reforms,” leading to the *Règlement Organique* created in 1861, which institutionalized sectarian representation and thus divided loyalties along mainly but not exclusively sectarian identities (Salloukh et. al., 2015: 13). After the collapse of the Ottoman Empire and the independence of the Lebanese Republic in 1943, the National Pact, an unwritten gentlemen’s agreement, distributed the executive, legislative, and judicial powers based on a confessional power-sharing arrangement (Salloukh et. al.,

2015: 17). The Ta'if accord rearranged this arrangement to reflect postwar sociological and political realities. It nevertheless considered sects as the main pillars of political identity and mobilization in post-war Lebanon, reproducing the *Za'im* state, where communal and political party leaders use public institutions, networks, and resources to “provide and facilitate access to public services, secure people’s dignity, and act as power brokers and protectors” for their constituencies (Hermez, 2015: 508). Albeit Ta'if aimed at creating coexistence among sects, it failed in providing “stable and properly functioning public institutions” (Nagle, 2018: 1375).

In a state where sectarianism is so robust, such divisions aggravate the struggle to balance the interests of its constituents, thus leading to decision-making paralysis and inefficiency in policy making. The concept of “*muhasasa*”, which is when each group is guaranteed representation in the predetermined sectarian quota, is at the heart of the postwar power-sharing arrangement (Leenders, 2012). The “allotment state” allows sectarian elites to take advantage of public goods to achieve private gains, thus dividing state resources among themselves and to some extent sharing it with their “sectarian constituencies” to ensure the sustainability of political support (Leenders, 2012). Due to a “frail infrastructural power” based on sectarian divisions, the Lebanese state is assumed to be weak and unable to impose autonomy over society (Mouawad and Bauman, 2017). This weakness consists of “segmented sociocultural units” where the state fails to control “legitimate physical violence on a particular territory” and allowing external actors to intervene in domestic affairs (Mouawad and Bauman, 2017: 68). Also, the *laissez faire* economy which is based on minimal state intervention in the market, strengthens clientelism and allows the political leaders to block attempts to expand the role of the state in resource distribution (Mouawad and Bauman, 2017). Moreover, Lebanese public

institutions lack clear and basic procedures and regulations to ensure transparency and accountability in addition to the segregation of public from private interests. This has led to the creation of an “allotment state” or “*dawlat al muhasasa*” where institutional rules are disregarded and the postwar power-sharing pact is lubricated by corruption (Leenders, 2015).

Is, then, power-sharing in deeply divided societies a recipe for corruption? According to Michael Hudson (1988), Lebanon has failed to maintain a legitimate power-sharing order. There are no clear-cut boundaries of who governs, and how. Hudson (1988) argues that a power-sharing formula would have a chance only when a state is both strong and autonomous. However, Lebanon does not meet both criteria. Mouawad and Bauman (2017), on the other hand, challenge the assumption that the Lebanese state is weak by examining two strong institutions, the Central Bank which played a major role in reproducing capitalism and the Lebanese Army which created a “state effect” in Akkar throughout political turbulences when the state was at its weakest and public institutions were in paralysis. The “pie-sharing” system, according to Nagle (2018), mirrors the reality of public resource division amongst elites in the name of protecting the sect’s rights, leading to the hardening sectarian identities. As a result, tensions across sectarian divisions are projected through various forms of power- manipulation including “muhasasa” and corruption in public office which the next section examines.

2.3 CORRUPTION IN LEBANON

Lebanon is a country burdened by public debt, inadequate basic infrastructure, and deep inequalities in terms of income and wealth distribution (Leenders, 2015). This is in

large measure due to the allotment state created by the postwar political economic elite. It serves to block any attempt at “expanding the role of the state in resource distribution”; consequently, power and wealth accumulate amongst a small circle (Mouawad and Bauman 2017, p. 68). Corruption in Lebanon is entrenched in all of its public institutions, as a result of the power-sharing formula among sectarian groups which led to “competition over state resources” (Martin, 2015). Corruption has led to “spoils of public office, privileges, and state resources between elites”, as a result of failed power-sharing system, and it has become “engrained and institutionalized in all matters of public life” (Leenders 2012, p. 8). According to Salloukh (2019), corruption is the “lubricant of a political economic pact that serves as the lynchpin of the postwar power-sharing arrangement” and has been utilized to ensure the “reproduction” of sectarian elite and “clientelist modes of mobilization”. Thus, political elite managed to utilize postwar public institutions to “sanction different forms of corruption” which have become foundations in the Lebanese postwar political anatomy (Salloukh, 2019).

In 2018, Lebanon was ranked 138th over 180 countries in the Corruption Perception Index (CPI), compared to 143rd in 2017, with a score of 28/100 over the past four years, on a scale where 0 is very corrupt and 100 is not corrupt, indicating a high level of corruption in the public sector. When added to the weakness of the state, widespread corruption in Lebanon’s public institutions may prove a major barrier to the oil and gas sector. Investors may not be attracted to the petroleum sector, and revenues from petroleum exploration may not be managed in a transparent manner (Martini, 2015). How then can the oil and gas sector be protected from a corruption that is institutionalized and taken for granted in postwar Lebanon? According to Leenders (2015), various studies and experiences prove that oil and gas resources can turn into a curse when the “revenue

management and expenditure policies” are exposed to high risks of corruption and favoritism.

The author of *Don Quixote de la Mancha*, Miguel de Cervantes, once said that “the gratification of wealth is not found in mere possession or in lavish expenditure, but in its wise application” (Ebrahimzadeh, 2020). A prominent example of “black gold” turning into a resource curse is Nigeria, which resulted in corruption, war, and environmental damage (Balaam and Dillman, 2016). Nigeria, Equatorial Guinea, and Angola have been vulnerable to resource-fueled corruption, and have even experienced civil war or violence which lasted many years over “territorial disputes in oil rich regions” (Balaam and Dillman, 2016; 494). On the other hand, resource- rich countries such as Norway and Chile have done exceedingly well in managing their resources, due to effective governance such as the high quality of “public service provision, and the competence of civil servants, the independence of civil service from political pressure, and the credibility of the government’s commitment to policies” (Hopkins and Webster, 2006). Both Norway and Chile, who fall first and second respectively according to the NRG’s Resource Governance Index (2017) in terms of natural resource management, have a set regulatory quality system, substantial rule of law, and solid corruption control as well as accountability measures (Hopkins and Webster, 2006). Consequently, policy lessons from countries that have successfully managed their natural resources, as well as those that have failed in doing so, must be drawn into the Lebanese context. Establishing anti-corruption and transparency mechanisms are essential steps to ensure proper management of petroleum revenues.

2.4 THE OIL AND GAS SECTOR IN LEBANON

In August 2010, the Lebanese Parliament approved the OPRL, which provides a general framework for the administration of the oil and gas sector (Leenders, 2015). In 2012, the Lebanese Petroleum Administration (LPA) was established and was made responsible for managing the bidding process, assisting the Ministry of Water and Energy in negotiating the exploration and petroleum agreements, as well as overseeing petroleum activities. According to the law, the LPA is composed of six members, divided along a predetermined sectarian quota, and appointed by the council of ministers for a term of six years. The chairman is appointed for one year and the position rotates among other board members in alphabetical order. Once their term ends, members cannot be hired by a petroleum company or work in the oil and gas sector for two years. The law also grants the LPA financial and administrative autonomy (Martini, 2015). So far, the LPA's performance assessment is positive amongst experts and CSOs working in the field, as it has conducted the "pre-qualification and bidding-round in a transparent and accountable manner" (Martini, 2015). The LPA has also organized a series of events with investors, experts and CSOs to discuss issues related to governance in the oil and gas sector, acknowledging the major role that civil society can and must play in monitoring petroleum revenues (Martini, 2015). Invariably, however, the fact that the LPA is appointed by the council of ministers exposes it to the political elites' influence.

The award of contracts and licenses are particularly vulnerable to corruption, especially in "determining areas of exploration, cost recovery basis, the license's profit share, rate of production, end-phase commitments, and reporting obligations" (Martini, 2015). While Lebanon's petroleum activities regulations (decree 10289, article 162)

explicitly ban any form of corruption or bribery in the petroleum sector, the Lebanese government has failed to define a clear strategy and vision for the oil and gas sector (Leenders, 2015). Article 3 of the OPRL states that the net proceeds collected will be placed in a sovereign fund, “which is a savings fund that aims at collecting the financial assets to ensure that future generations benefit from oil resources” (Martini, 2015). However, the viability and sustainability of a sovereign fund are arguable, especially when managed by a weak state with corruption rooted across all its public institutions. Moreover, how much this fund can remain insulated for the political elite and their clientelist networks remains an open question.

Law 132 (article 6-1) indicates that “when necessary and after promising commercial opportunities have been verified, the Council of Ministers may establish a National Oil Company on the basis of a proposal by the minister based upon the opinion of the petroleum administration.” Acknowledging that an NOC will not only boost Lebanon’s economy through increasing the employment rate but will also allow for higher production revenues through proper management of the sector, one can also argue that it can be another inefficient and corrupt public institution, given the Lebanese context and based on worldwide experiences of NOCs which have often been prone to corruption (Leenders, 2015). The NOC, similar to all other public institutions in Lebanon, will reinforce the *muhasasa* system and quarrels on dividing revenues and business opportunities with the emerging petroleum sector (Leenders, 2015). What then is the role of CSOs in this process? The next section examines this theme.

2.5 CIVIL SOCIETY ORGANIZATIONS

Civil Society Organizations are defined as active groups of non-governmental and non-profit organizations working in the public sphere on issues of concern across all “sectarian groups without direct funding from political parties or religious groups” (Beyond Reform and Development, 2015: 48). Regardless of the thematic focus of the CSO, they all take part in “policy dialogue and governance according to its function, which varies between representation, lobbying and advocacy, monitoring and observation, protecting marginalized citizens, building capacity, raising awareness, or service provision” (Beyond Reform and Development, 2015: 51). In April 2014, the Ministry of Social Affairs announced the registration of 8,311 CSOs working in Lebanon, amongst which 25.4% are working on advocacy and lobbying, 8% on policy development, 4% on dissemination of good practice, and 3.6% on monitoring the performance of local and national government (Beyond Reform and Development, 2015: 52).

Due to weak public institutions in postwar Lebanon, CSOs have played a major role in development across many sectors. The Lebanese state’s structural weakness allows non-state actors to take control when the state fails to do so (Mouawad and Bauman, 2017). While civil society in Lebanon is a major advocate for improving transparency and accountability within public institutions, many CSOs have adopted the state’s corruption strategies and have turned into profit networks (Abou Assi, 2006: 103). It is also worth noting that only 5% of stakeholders believe that CSOs are actively involved and successful in promoting democracy at a societal level” (Abou Assi, 2006: 103). For example, the Lebanese Transparency Association (LTA) led an advocacy campaign for the legislation and enforcement of the access to information law. As a result of its efforts, the law was

passed by Parliament in February 2017. Other relatively new organizations focusing solely on the oil and gas sector, such as the LOGI, also had an impact in advocating for the establishment of a Lebanese Petroleum Association, two years after the OPRL was legislated. Therefore, CSOs not only play a monitoring role, but also provide the government with expertise to empower and improve the sector's functionality. Although a Lebanese Coalition for Good Governance in the Extractive Industries (LCEI) was formed in early 2018, and composed of nine different CSOs, it did not manage to survive for long, and only three organizations have had an impact in promoting and advocating for transparency in the oil and gas sector to mitigate risks of corruption.

LCPS, a Beirut-based think tank which works on several governance issues including the petroleum sector, has been working since 2013 on research related to governance of the oil and gas sector in Lebanon, publishing a number of policy papers. LCPS has led various efforts with Members of the Lebanese Parliament and LPA to enhance transparency and public accountability in the sector. LTA has also been a leading member of the coalition, aiming to promote transparency in the oil and gas sector through using the access to information law to advocate for the passing of a transparency law in the petroleum sector at the parliament. LTA is also considered to be a leading CSO in fighting corruption in Lebanon. Finally, LOGI aims to develop a network of "Lebanese petroleum experts from across the world to provide them with a platform to both inform citizens and advocate for key issues facing the oil and gas industry" (LOGI, 2018). The organization focuses on public awareness, policy development, and advocacy to help Lebanon maximize the economic and social of its oil and gas wealth, and avoid the resource curse (LOGI, 2018). Other international organizations including Publish What You Pay (PWYP) and Natural Resource Governance Institute (NRGI) have been working

to provide technical support to local organizations on the extractive sector and how its revenues can be used to benefit the economy and society as a whole. Corruption has become one of the Lebanese public institutions' pillars, given the robust power-sharing system which serves the interests of the postwar political economic elite. So, one cannot but question the extent which CSOs' can impact policies pertaining to the oil and gas sector, acknowledging their limited power in governance, restricted finances, and minor previous achievements on various policy issues.

Finally, the Extractive Industries Transparency Initiative (EITI) is an initiative launched by former British Prime Minister Tony Blair to increase transparency in financial transactions within the petroleum industries around the World. Since 2002, EITI has formed a global network of governments, CSOs, and companies working to promote transparency in this sector (Martini, 2015). "It is a paradox that countries with an abundance of natural resources are often very poor and characterized by war and conflict," a phenomenon known as the resource curse (EITI, 2018). The aim of EITI is to ensure citizens benefit from resource revenues and thus economic development which is achieved by enhanced governance and less corruption (EITI, 2018). Countries interested in joining the initiative are preconditioned to commit to strengthening resource revenue transparency, which increases policy efficiency and reduces revenues for personal gain and corruption deals (Martini, 2015).

EITI is one of the most important global standards which contribute to the improvement of natural resource management. Lebanon has not yet joined the initiative, however the endorsement of the Transparency in the Oil and Gas Sector law by the Lebanese Parliament was a step forward. The next step is for the MoEW to form a Multi-Stakeholder Group (MSG) which is composed of government representatives, companies

operating in the host country, and a civil society representative. Through the MSG, EITI allows the representation of different stakeholders in the sector to promote transparency, accountability, and good governance. According to EITI conditions, civil society should vote for its representative in the MSG. The former Minister of Energy and Water, Nada Boustany, who served under Prime Minister Saad Hariri's government, has called for an election on March 15, 2019, yet CSOs failed to complete the nomination procedures of their representatives. Consequently, the MSG is on hold. While this is a crucial step towards enhancing the sector's transparency and credibility according to international standards, CSOs have proven to be fragmented from within, and the Ministry has not displayed serious commitment to transparency, since the overall selection process has not been clear to the public.

2.6 CONCLUSION

This chapter examined the literature on the political context, sectarianism, and power-sharing in Lebanon, and how institutionalized corruption can affect the oil and gas sector. The current status of the oil and gas sector in Lebanon was analyzed, and the role of civil society organizations in policy awareness and advocacy was discussed. To answer the research question of this thesis, publications by civil society organizations were reviewed and followed up by semi-structured interviews on their advocacy efforts in the sector, as well as how EITI is used as a main tool to pressure for proper legislation and ensure global standards of petroleum resource management. The next chapter looks at the role of CSOs in promoting transparency in the oil and gas sector.

CHAPTER THREE

THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN PROMOTING TRANSPARENCY IN THE OIL AND GAS SECTOR

3.1 INTRODUCTION

On September 6, 2018 the Lebanese Parliament passed Law 84/2018 on “Strengthening Transparency in the Oil and Gas Sector”. This law sets the legal framework to ensure the right of citizens to access information relevant to the oil and gas sector, and is an essential step by the Lebanese state towards the global recognition of the sector as transparent and accountable. However, complying with international standards is not enough to prevent corruption in this sector. In addition to the “Strengthening Transparency in the Oil and Gas Sector law”, the Offshore Petroleum Resource law established the legal foundation for preventing the nascent sector from an illness which has affected the Lebanese state and many of its public institutions: namely, corruption. Through regulating petroleum activities and increasing transparency to allow active monitoring at the administrative, legislative, and judicial levels, these laws are tools to ensure the proper management of financial resources (Alem and Tebbo, 2019).

The “Transparency in the Oil and Gas Sector” law granted CSOs the legal right to access information related to the sector, thus the ability to effectively monitor petroleum

activities and evaluate the relevant institutions' performance. While this step is important during the exploration phase, it is crucial in the production phase where the process of revenue management will determine the success rate of this sector. This chapter examines the efforts of three CSOs in Lebanon on behalf of greater accountability and transparency in the oil and gas sector. It opens with discussing the role of CSOs in the post-war area, then explores the work of LOGI, LTA, and LCPS in the oil and gas sector and altercates their impact. The chapter then maps out the stakeholders of the petroleum administration, and scrutinizes the effect of political party alliances on the sector.

3.2 THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN THE POST-WAR ERA

Lebanon's civil society organizations complemented "the role of the government" in the postwar era (Beyond Reform and Development, 2015: 45). However, it was only after the withdrawal of Syrian troops from Lebanon in 2005 that the role of CSOs in policy and political reform became relatively more effective, as a new space for political and legal freedom emerged, one that did not exist before (Beyond Reform and Development, 2015: 45). Salloukh et al. (2015) contend that Lebanon's post-war CSOs have failed to offer alternatives to postwar sectarian modes of mobilization. Clark and Salloukh (2013) argue that elites pursue their political and socioeconomic interests at the expense of CSOs, while CSOs "instrumentalize the sectarian political system and its resources to advance their own organizational or personal advantage" (p.731). This serves sectarian elites' interests as it allows them to coopt and infiltrate CSOs efforts and in some cases, redirect it through their control of state institutions (Clark and Salloukh, 2013).

CSOs in Lebanon are administered by the Law of Associations of 1909, which requires them to inform the Ministry of Interior (MOI) and the regional administrator if the CSO is based outside Beirut, of their establishment by submitting an information letter specifying their mission, vision, and goals, along with a list of the Board of Directors (Clark and Salloukh, 2013). Upon approval, the MOI issues a receipt known as the “*Ilm wa- khabar*” acknowledging the CSO’s establishment in Lebanon, noting that the MOI has the right to annul and refuse the request of any CSO. Hypothetically, “CSOs can openly debate public policy, criticize the government, and conduct lobbying and advocacy activities” (Clark and Salloukh, 2013: 741).

While Lebanon’s CSOs work on a wide array of issues, this thesis focuses on NGOs working under the umbrella of good governance and advocacy, specifically in the oil and gas sector, particularly their lobbying and advocacy efforts. CSOs operating in this domain “formulate policy solutions and recommend reforms at the level of practices, law, or policies at the national level”, monitoring and observation, through “influencing citizen’s opinions through sharing information on the performance of local and national government”, building capacity of citizens through enhancing their knowledge on national issues, and finally raising awareness through educating the public (Beyond Reform and Development, 2015: 51). However, more often than not, CSOs have not been successful in lobbying and advocating for policies and thus have had a minor impact on governance.

Fragmentation within civil society organizations was part of this failure, which mainly goes back to strategies of international donors who follow the interest of sectarian elites. Since CSOs’ interests and activities are based on “donor money,” priorities are set according to a foreign policy agenda (Salloukh et al., 2015: 58). International aid assistance “de-radicalizes the discourse of CSOs” who become detached from citizens

needs and fail to respond to their core values. Divisions and disagreement within and amongst CSOs on various issues such as the waste management crisis for example, “impedes unity around common goals” and thus CSOs have often been perceived as not strategic and not credible in terms of policy priorities (Salloukh et al., 2015: 58). While the policy development process is vastly technical and requires numerous resources and capacities, only 0.4% of all CSOs working in Lebanon cover the energy sector (Beyond Reform and Development, 2015). Therefore, in order to be as effective as possible, CSOs must work jointly to benefit from each other’s expertise and advocate not only for the legislation of laws, but also ensure their effective implementation. However, the dissonance amongst CSOs also applies to those working on the oil and gas sector.

The Lebanese Coalition for Good Governance in the Extractive Industries (LCEI), composed of nine different CSOs, was formed in early 2018. However, the LCEI partnership collapsed due to lack of agreement within the coalition after just one year of its formation. This resulted in the withdrawal of most of its members. Consequently, only three CSOs have had a considerable impact promoting and advocating for transparency in the oil and gas sector, to mitigate risks of corruption. For purposes of this research, the work of LOGI, LTA, and LCPS are studied. Interviews were conducted with the Executive Directors or representatives of the three organizations to understand the impact of these CSOs on enhancing accountability and transparency in the oil and gas sector.

3.3 LEBANESE OIL AND GAS INITIATIVE (LOGI)

The petroleum sector has had an impressive start when compared to other institutions in Lebanon. The process has been transparent and stakeholders have been

cooperative with CSOs and the media. CSOs have labored to explain the stakes to the public in the best manner possible, and advocate for best practices in the policy making process.¹

The Lebanese Oil and Gas Initiative was established in 2014 and has been working on the oil and gas sector ever since. It remains the only organization which focuses on the extractive chain in Lebanon.² According to Jeremy Arbid,³ one of its executive board members, LOGI's goal is to connect experts in the field and build a platform for them to inform the public and raise the awareness of Lebanese citizens to better understand the process. LOGI also advises policy makers on best practices in this sector. They have contacted decision makers advocating reforms on various levels, including the need for a strategic environmental assessment (SEA). Kaissy believes that LOGI has been working in a proactive way, not only through producing research papers and recommendations, but also through serving as “interlocutors between citizens and the government.”⁴

In 2014, the MoEW published a strategic environmental assessment, per the obligation to conduct and publish such an assessment before the implementation of any project. According to Kaissy, LOGI reviewed the 800-pages document, identified the loopholes and mistakes, and advocated for its redrafting. The main reasons for re-drafting the document included the limited cooperation with relevant ministries and CSOs, incomplete report which doesn't meet international standards, its contradictions with new Lebanese environmental legislation, as well as outdated and incomplete data. This led the

1 Mona Sukkariah, Middle East Strategic Perspective (January 25, 2019)

2 Interview with Diana Kaissy, Executive Director of LOGI (December, 2018)

3 Interview with Jeremy Arbid (February 2019)

4 Interview with Diana Kaissy, Executive Director of LOGI (December, 2018).

MoEW to take into consideration their recommendations, as acknowledged on LPA's website, and even used LOGI's consultants to redraft the SEA, which is not published yet.

LOGI's team also worked with EITI as certified trainers in the MENA since 2012, to enhance local CSOs knowledge on EITI and its implementation. In fact, Kaissy was most recently elected as a member of EITI's board for the next three years, representing civil society organizations, a precedent for the MENA region. When asked about whether EITI would help in mitigating corruption in the sector, Kaissy notes that while it is a voluntary initiative, it can be used as a "prophylactic to corruption, as we are using it in Lebanon as a vaccine."

Finally, LOGI believes that "Lebanon can benefit from its petroleum resources only if the citizens are informed and insist on claiming their rights." So far, however, most Lebanese are skeptical about the ability of the government to manage revenues from the oil and gas sector due to a lack of trust in the system.⁵ If well managed, the petroleum sector can have a ripple positive impact on other institutions in Lebanon. The Economic Conference for Development through Reforms with the Private Sector (CEDRE), which is an international conference supporting development and reforms in Lebanon hosted by France on April 6, 2018, has given the government a real opportunity to focus on the oil and gas sector and played a major role in the passing of the transparency law. The journey ahead is likely to be "very challenging, but also very promising. We need to be functional and present and continue raising awareness amongst the Lebanese public and open channels of discussion with the policy-makers."⁶

⁵ Interview with Diana Kaissy, Executive Director of LOGI (December, 2018).

⁶ Interview with Diana Kaissy, Executive Director of LOGI (December, 2018).

Given that it is the only specialized organization working in the oil and gas sector, LOGI was able to achieve considerable success advocating for transparency and accountability in this sector. In September 2017, the organization published a report containing recommendations to be adopted by the government and members of parliament based on a comprehensive revision of Lebanon's legislative framework surrounding the oil and gas sector; it was entitled *Transparency and Accountability in Lebanon's Petroleum Legislation*. The recommendations included contract transparency, calling upon the government to publish signed contracts as soon as it signs the oil and gas contracts. Another recommendation was related to disclosing the value of the revenues from seismic sales data and application fees, which are received by the government in the first licensing round. In March 2018, the LPA responded to LOGI's recommendations and published Lebanon's first two signed Exploration and Production Agreements. A year later, LPA published the account value containing the application fees and seismic sales data worth 42.74 million dollars.

Therefore, LOGI successfully advocated for contract transparency. However, while other organizations are competing for international funding to work in the petroleum field, efforts are lost through the lack of issue specialization locally, focused strategies towards policy makers, and duplication of work among the CSOs.

3.4 LEBANESE TRANSPARENCY ASSOCIATION - NO CORRUPTION (LTA)

The Lebanese Transparency Association – No Corruption (LTA), is the Lebanese chapter of Transparency International (TI), established in May 1999. According to LTA's previous Executive Director, Dany Haddad, LTA was the first NGO in Lebanon to work

on fighting corruption and promoting principles of good governance. Under its objectives of promoting transparency in Lebanon and given its success in working and advocating for the “Access to Information” law which was passed by the Parliament in January 2017, LTA saw the importance of working on raising awareness in the extractive industry and thus preventing corruption in the future.⁷

Prior to the adoption of the Transparency in the Oil and Gas Sector law by Lebanese Parliament in October 2018, LTA endorsed the draft law and lobbied for its ratification by promoting its substantial value on the future of the petroleum sector administration in Lebanon among MPs.⁸ LTA met with more than 70 MPs to secure their vote for the law, obtaining their signature on a petition advocating for a transparency law in the oil and gas sector.⁹ In addition to that, LTA works on raising citizen’s awareness in nine districts across Lebanon including the Chouf, Nabatiyeh, Saida, Beirut, Jbeil, Tripoli, Choueifat (Mount), Baalbeck, and Bekaa. It does so by educating the public about the oil and gas sector, the transparency law, and the value chain of the sector.¹⁰ While educating citizens on the oil and gas sector ensures that they are aware of their rights, encourages them to hold the government to account, and manages their expectations specifically in terms of the petroleum job market needs, it is however not sufficient enough to have an impact on the sector. Haddad (2018) believes that CSOs’ work is complementary to that of the government, however without a clear and institutionalized partnership set by perspicuous rules and regulations, their efforts will go to waste.

⁷ Interview with Dany Haddad, Lebanese Transparency Association, October 30, 2018.

⁸ Interview with Dany Haddad, Lebanese Transparency Association, October 30, 2018.

⁹ Interview with Dany Haddad, Lebanese Transparency Association, October 30, 2018.

¹⁰ Interview with Dany Haddad, Lebanese Transparency Association, October 30, 2018.

Salloukh et al. (2015) argue that while LTA was originally established to fight corruption, it “gave up its initial mission and moved to corporate governance” by allowing some of its founders to be involved in governance and become active members of sectarian political parties (p.58). This created a conflict of interest, whereby its role becomes confined to endorsing the political elite’s programs rather than monitoring their work and combatting corruption. However, since 2017, LTA managed to regain its credibility through restructuring the internal policies of its operational functions and thus had independent and non-partisan board and team members. This was positively projected in its quality of work, leading to a successful lobbying of the Access to Information law. Following that, LTA has worked on raising awareness of citizens including CSOs and journalists, municipalities, and stakeholders on the law, as well as continuously working with the Office of the Minister of State for Administrative Reform (OMSAR) on ensuring the implementation of the law, as well as advocating for the creation of an official anti-corruption strategy through a permanent bureau.

The Access to Information law is a gateway to enhancing transparency and accountability across all governmental institutions and served as a base to the Transparency in the Oil and Gas sector law. Both laws will potentially contribute to enhancing governance practices and strengthening the rule of law in Lebanon, and specifically in the oil and gas sector. However, the Lebanese Transparency Association has had an insignificant impact on enhancing transparency and accountability in the oil and gas sector law given its lack of experience and specialty in the petroleum sector.

3.5 LEBANESE CENTER FOR POLICY STUDIES (LCPS)

The Lebanese Center for Policy Studies (LCPS), however, is quite different from both LOGI and LTA. LCPS is a “non-partisan, non-profit, and non-governmental think tank founded in 1989, whose mission is to produce and advocate for policies that improve governance in Lebanon” (LCPS, 2019). Among its primary research and advocacy focuses is advocating for a transparent oil and gas sector (LCPS, 2019). LCPS directly engages with decision makers to shape policy and has “contributed to formulating the 2006 Boutros draft electoral law and the 2014 draft decentralization law,” albeit both were not passed (LCPS, 2019). In addition to that, LCPS works to inform the public and policymakers on policies through producing policy studies, using them to advocate for reforms in an array of sectors (LCPS, 2019). Interestingly, LCPS claims to have founded three NGOs including LTA, Lebanese Association for Democratic Elections (LADE), and the Lebanese Conflict Resolution network.

Rania Abi Habib, LCPS programs manager, described their work in the oil and gas sector as including organizing roundtable discussions between LPA, oil and gas experts and members of CSOs to discuss the future of the sector in 2013 and 2014, as well as organizing regional trainings to enhance the knowledge of experts on the petroleum sector. LCPS and NRGJ established the MENA Natural Resource Governance Hub, “whose goal is to provide policy knowledge and build the capacity of key stakeholders in the sector.” LCPS was also part of the LCEI so that CSOs can monitor the “operation and growth of the petroleum sector.” They later decided to leave the coalition once they felt that the CSOs were not in alignment on the goals and targets of monitoring the government’s work in the oil and gas sector. Yet, that did not stop LCPS from continuing

their efforts in the sector. They have continuously worked with experts on producing policy recommendations, which were recently published in a book titled *The Future of Petroleum in Lebanon* (2019).

LCPS's work refers to experts in the field and is an added value to the literature on the oil and gas sector in Lebanon, whether it is tackling it from the governance, environmental, management and licensing, or impact and implications perspectives. However, theories and best practices do not necessarily feed into policies and thus do not have an impact on enhancing transparency and accountability. What is more important is how these policy papers and recommendations are utilized in order to advocate for the legislation of laws that ensure more transparent institutions and follow up on their implementation. Atallah and Fattouh (2019), have recognized that the general public might find LCPS's policy papers too long or technical, however they argue that summarizing them into policy briefs synthesize key arguments and targets policy officials. While LCPS has managed to publish its recommendations in Lebanon's most prominent newspapers including *An-Nahar*, *Al-Akhbar*, and *The Daily Star*, they have failed to attract the decision-maker's attention.

While it is pivotal to present policy recommendations based on expert knowledge to enhance the institution-building process, one must strategically target entry points into the complex political system, where political parties are its beating heart, and the beguiling of legislators can be pointless, for more often than not, they aren't the true decision makers.

3.6 POLITICAL PARTIES: A GATEWAY TO THE OIL AND GAS SECTOR

To better understand the decisions taken by the Petroleum Administration, one must understand the role of political parties in the decision-making process. The politicization of decisions is attributed to the consociational structure of governance in Lebanon. The confessional apportionment (or *al-muhasasa al-ta'ifiya*) system, where everyone wants a share of the cake, is enshrined in political practice. It ensures that each sect is part of the decision-making process, which most often than not shifts the focus from effective policy-making to securing agreements amongst stakeholders representing political parties and sectarian communities. For example, the positions of the Lebanese Petroleum Administration are divided equitably along confessional and sectarian lines. Each of the 6 major sectarian communities are represented by one member: the Shi'a, Sunni, Druze, Maronite, Greek Orthodox, and Greek Catholic. This ensures that the sectarian leaders controlling the main political parties are represented and would have a say in the decision-making process (Arbid, 2013).

According to Arbid (2013), several members appointed to the petroleum administration were key in the drafting of the state's petroleum policy, one that, interestingly, was not made available for public scrutiny. For example, Wissam Zahabi was an advisor to the Prime Minister since 2003, and Gaby Daaboul was a legal advisor at the Safadi Foundation (Arbid, 2013). Both had a major role in drafting the Offshore Petroleum Resources Law #132/2010, the Petroleum Activities Regulations, and several other correlating decrees (Arbid, 2013). Arbid (2013) also quotes Carole Nakhle, an energy economist with Surrey Energy Economics Center, contending that “[the Hydrocarbon law] gives more or less significant discretionary power to the Minister of

Energy and Water...in that sense, whoever is controlling the MoEW will have a big say in the future of that sector and, as such, the future of the country.”¹¹

Thus, the logic of sectarian political gains, rather than national priorities, drives the decision-making process. The chart below explains the decision-making process in the petroleum sector. For the past ten years, the MoEW has been under the ‘control’ of the Free Patriotic Movement (FPM): first under the tenure of FPM leader Gebran Bassil (2009-2013), followed by current FPM parliamentary member Cesar Abi Khalil (2016-2018), and most recently, Nada Boustany (2018- 2018), an FPM activist and part of Bassil’s advisory team since 2010. Indeed, the FPM has been a driver of the oil and gas sector gain. Bassil’s first achievement was having the parliament pass the Hydrocarbon Law number 132/2010, followed by its ratification by the cabinet. The Lebanese Petroleum administration was also formed, prequalification phase commenced, and geological explorations continued. Nevertheless, the influence of the FPM in the oil and gas sector should not be over exaggerated.

The LPA possesses a technical, regulatory, and advisory role in the management of the petroleum sector, and it falls under the “supervisory authority of the MoEW.” In turn, the latter reports to the Council of Ministers. It is also responsible for ensuring the implementation of the national petroleum policy and the OPRL, promoting Lebanon’s “petroleum potential”, supervising petroleum activities, and other duties related to environmental safeguarding (LPA, 2019). However, “most of the decisions taken by the

¹¹ Matt Nash, “Energy ministry is new crown jewel,” NOW Lebanon, April 2013. <https://now.mmedia.me/lb/en/reportsfeatures/energy-ministry-is-cabinets-new-crown-jewel> (accessed October 6, 2019).

MoEW require the Council of Minister's approval, and the Minister's decisions are shaped by LPA's technical advice and recommendations" (LPA, 2019).

Thus, the Council of Ministers executes Lebanon's petroleum policy and is the final decision-taker regarding exploration and production agreements, content of license applications and due fees, and of course, the LPA member's appointments (LPA, 2019). Therefore, while the FPM is currently running the petroleum sector show, it cannot shape policy without the consent of the Council of Ministers. Former Prime Minister Saad Hariri's government of January 2019 included five FPM ministers: Ghassan Atallah (Minister of State for the Dispalced), Fadi Jreissati (Minister of Environment), Mansour Bteish (Minister of Economy), Gebran Bassil (Minister of Foreign Affairs), and Nada Boustany (Minister of Water and Energy) and three others as part of the Presidential share including Elias Bou Saab (Minister of Defense), Albert Serhan (Minister of Justice), and Salim Jreissati (Minister of State for Presidential Affairs), along with Avedis Guidanian (Tashnag's Minister of Tourism), the Strong Lebanon bloc forms 30% of cabinet, and exercises considerable decision-making and veto power. Following the October 17 uprising that led to the resignation of Hariri's government due to public pressure, a new cabinet was formed by Prime Minister Hassan Diab on January 21, 2020. Diab's government aims to be perceived as independent, however most ministers were named by sectarian political parties or elites. Therefore, political parties remain as the real power holders in the decision-making process when it comes to the petroleum sector in Lebanon, and consensus is the key towards policy development.

Interestingly, and as a step forward to enhance the partnership between civil society and the government, the Minister of Energy and Water, Raymond Ghajar, formed an advisory committee who's aim is to provide support to the MoEW on issues related to

the Energy sector as a whole, and not only limited to the oil and gas. The committee is composed of seven experts, including the Executive Director of the Oxford Institute for Energy Studies Dr. Bassam Fattouh, Vice President of Saint Joseph University Dr. Fadi Geara, Executive Director of LCPS Sami Atallah, Executive Director of “Kulluna Irada” Hala Bejjani, Strategy and Digital Transformation expert at KPMG Dr. Samer Abdallah, and Assistant Professor of Economy and Assistant Dean of Graduate Studies and Research at the Lebanese American University Dr. Walid Marrouch. The committee held its first meeting in March 2020 to discuss the MoEW’s work as well as the challenges it is facing, and will continue to serve as a consultation board and provide technical advice to the ministry whenever possible.

While this step is of great importance, LOGI (2019) argues that in order to be effective, CSOs must lobby Parliament to “pass new laws” and the Council of Ministers to “change, accept, or reject decrees.” Their efforts with the Ministry of Energy and Water must be focused on monitoring the implementation of decrees and policies (LOGI, 2019). Finally, CSOs must “get down and dirty with the technical details and push the Lebanese Petroleum Administration” to establish a transparent process with CSOs (LOGI, 2019). That is how they will be able to monitor the development of the oil and gas industry most effectively. Figure 3.1 below outlines the main decision makers in the oil and gas sector, or what LOGI (2019) refers to as the decision pipeline.

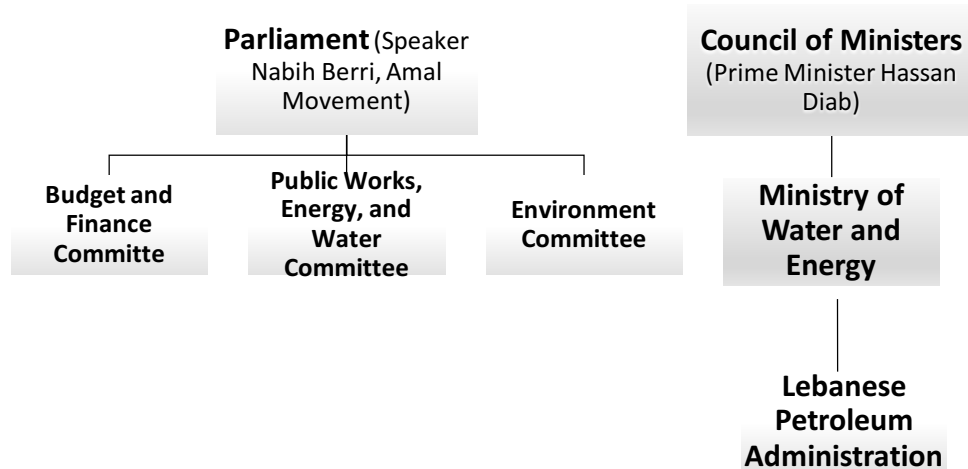


Figure 3.1

3.7 THE LEBANESE UPRISING

Unparalleled protests swept across the country on October 17, 2019, in response to the Government of Lebanon’s decision to impose taxes on WhatsApp calls. Citizens’ frustration with the government had been on the rise in the wake of its inability to extinguish wildfires just days before, which merely compounded broader discontent regarding rampant corruption and the deterioration of the Lira, poor public services, and unemployment. Lebanon’s current uprising, which is considerably larger than that of the 2005 Cedar Revolution, managed to replace deeply rooted sectarianism for many but not all Lebanese with a sense of nationalism; it also united many Lebanese citizens across the country around socio-economic grievances (Atallah, 2019). The once robust sectarian

power-sharing system is currently being challenged, as people are no longer mobilized based on their sects and/or political party affiliation, instead expressing their frustration toward the corrupt elites who led the country to the current state of affairs, calling for fundamental change in the political system. Protests are taking place throughout the geographically and religiously diverse regions of the country, and the diaspora has also joined the movement, with protests taking place in front of Lebanese embassies around the world in support of the uprising. On the 30th anniversary of the Ta'if Accord, which ended Lebanon's civil war by reorganizing the sectarian system but also called for the eventual abolition of political sectarianism, many Lebanese citizens have loudly and clearly expressed that the time has come for reform. Thirteen days after the protests started, Lebanese Prime Minister, Saad el Hariri announced his resignation and thus the resignation of the entire government, followed by a speech by President Aoun claiming the oil and gas sector as a potential solution to the economic crisis.

While that might be true in the long run if the sector is well managed, it is not possible to predict at this point in time how much oil and gas Lebanon's offshore has, knowing that Total is still in the drilling phase. Therefore, both LOGI and LTA have grabbed this opportunity to raise the awareness of citizens participating in the uprising on the oil and gas sector, specifically on the current status and how laws can be implemented as a protection from widespread corruption, to avoid them falling into the trap of believing false promises. Interestingly, Amal Movement has also used this opportunity to criticize the performance of FPM, who has been overseeing the sector for almost a decade through the Ministers of Energy and Water, claiming that Total has been delinquent in its exploration duties. Thus, this sector has proven to be of high importance to the political

elite. It is constantly brought up in their speeches throughout the uprising as a possible salvation for the country from its economic predicament.

3.8 CONCLUSION

The Lebanese Petroleum Administration has defined the role of CSOs as those “responsible for overseeing the oil and gas sector, holding politicians accountable in case they fail to abide by best practices while managing the sector, and ensuring that transparency measures are implemented where applicable” (LPA, 2019). In addition to that, the LPA (2019) has acknowledged the vital role of CSOs in advocating for solid policies during the “consultative processes,” as well as their responsibility to publicize information related to the sector aiming to educate and engage the public in discussions and debates, while managing expectations.”

Despite all the challenges facing CSOs in the oil and gas sector, including lack of public interest in the sector and decreased funding from the international community, particularly on the issues related to good-governance and transparency, LOGI, LTA and LCPS continue their efforts to monitor the work of the MoEW and LPA, in addition to engaging on policy advocacy and information, regardless how minor their impact might be on the overall course of the sector. CSOs have managed to successfully lobby for the “Transparency in the Oil and Gas sector law” and raise awareness amongst both stakeholders and the public on the importance of transparency in this sector in the future. However, it is equally important, if not more so, to ensure the implementation of such laws, hence the importance of CSO participation and impact.

Lebanon has established a legislative framework for the oil and gas sector with transparency as one of its main pillars, to “allow Lebanese citizens to actively engage in the oversight of petroleum activities in an informed and constructive manner” (LPA, 2019). The structure promotes transparency through an “open and competitive licensing procedure, fixed contract terms and quantitative assessment of applications, clear accounting and financial procedures, regulations on health, safety and the environment” (LPA, 2019). Additional measures to promote transparency have been incorporated in the legislative framework including the Access to Information law and Transparency in the Oil and Gas Sector law, to align with international standards, specifically the EITI (LPA, 2019). The next chapter examines and assesses different measures taken to reduce corruption risks in the sector, namely through an in-depth analysis and comparison of different laws affecting the petroleum sector.

CHAPTER FOUR

POLICY OPTIONS TO REDUCE CORRUPTION

RISKS IN THE OIL AND GAS SECTOR

4.1 INTRODUCTION

In April 2019, The Lebanese Petroleum Administration announced that Lebanon will be ready to start exploratory drilling in block 4 in December 2019, followed by block 9 in 2021 (LOGI, 2019). On April 26, 2020 the Minister of Energy and Water announced that no commercially-viable amount of gas was found in block 4, however drilling has uncovered traces of a “petroleum system” which could be found elsewhere in Lebanon’s waters, and that the government will be waiting for Total’s detailed report in the upcoming two months (Azhari, 2020). Also, due to the COVID-19 pandemic, the drilling of block 9 might be postponed, however the government can choose to “legally extend the exploration deadline” (Azhari, 2020). The exploration phase may last up to six years, with an ultimate goal of making commercial discovery. This is followed by an appraisal phase which requires “establishing the characteristics of the discovered reservoir and the properties of its oil and gas” and demands two additional years (LOGI, 2019). Subsequently, the construction of the well and development drilling in proven oil and gas production areas takes around one to three years to reach the final production phase which would bring revenue to the Lebanese State (LOGI, 2019). Therefore, the process from licensing to production entails at least 10 years to accrue revenues to the Lebanese state.

This allows enough time to the government to set a transparent system in place for the sector's management, through the rule of law and legal frameworks vital to achieve accountability and successful governance of the oil and gas sector.

The oil and gas industry includes thousands of companies engaged directly and indirectly in a wide range of activities across the supply chain: from upstream, which includes exploration and production of oil and natural gas; midstream, which refers to the transportation and storage of crude oil and natural gas before they are refined and processed; to, lastly, downstream which is the final sector of the industry and includes transforming crude oil and natural gas into thousands of products such as gasoline, diesel, jet fuel, and asphalt, in addition to various supporting services and functions (Nakhle, 2016). Therefore, transparency rules and regulations must be applied to all sectors in the economy to avoid the resource curse.

Some argue that a law on the management of a potential SWF along with the transparency in the oil and gas sector law would prevent cases of corruption and misuse of resources (Nakhle, 2016). However, the world's most transparent SWF, Norway's Government Pension Fund Global, which has been exemplary in terms of revenue management, does not owe its success to one specific piece of legislation. After all, Norway's strengths include a much broader, well-established and transparent institutional framework encompassing its entire economy, not just the oil and gas sector (Nakhle, 2016). Therefore, Nakhle (2016) argues that it is ingenious to believe that a broad law on transparency with a focus on the oil and gas sector will eliminate corruption and power abuse risks, for this is only one of many pillars needed to build a robust and accountable sector.

This chapter examines the policy and legal measures that have been hitherto taken to reduce corruption risks in the sector, as well as their challenges; it also assesses the prospects for managing the petroleum sector transparently. It opens with an analysis of Lebanon’s key petroleum legislation related to countering corruption, specifically the Pre-qualification decree and Exploration and Production agreement, Access to Information law, and Strengthening Transparency in the Oil and Gas Sector law. The chapter then discusses two controversies related to the sector’s management, precisely the National Oil Company and Sovereign Wealth Fund.

4.2 LEBANON’S PETROLEUM LEGISLATION AS A MEASURE TO COUNTER CORRUPTION

Transparency and accountability in the oil and gas sector should not be confined to the Transparency Law only, but must also be incorporated into the main petroleum legislation and implemented across all aspects of petroleum-related activities. Below is an analysis of the Lebanese regulatory framework for petroleum activities which takes into consideration the red flags of corruption and is laid out according to the developing phases of the sector.

4.2.1 AN EVALUATION OF THE AWARD PROCESS: PRE-QUALIFICATION DECREE AND EXPLORATION AND PRODUCTION AGREEMENT

Chapter four of the OPRL focuses on the award of exclusive petroleum rights of exploration and production. Article 15 indicates that the “exploration and production agreement shall only be awarded to pre-qualified joint stock companies” (Offshore

Petroleum Resource Law, 2011). The Pre-qualification phase is when the government assesses whether the companies applying are technically and financially eligible to operate, thus facilitating enhanced levels of transparency at the bidding phase because “the award process and bid criteria can focus on elements that are easier compared objectively” (LOGI, 2017). The Pre-qualification Decree implements Article 15 of the OPRL and sets its main rules including the conditions for application, criteria, submission, and results (LOGI, 2017). However, LOGI (2017) argues some rules must be further explained, such as the pre-qualification of the Right Holders, where interpretations of illegibility are contradictory in different articles. To strengthen the transparency in the award process, the decree should mention that all the information – such as list of applicants, key decisions, and results of the prequalification process – must be published (LOGI, 2017). The decree must also indicate that those pre-qualified companies not selected should receive a written rejection, which would be used as a supporting document if they choose to file a complaint to the Administrative Court (Conseil D’Etat) (LOGI, 2017). Based on these loopholes, the “Strengthening Transparency in the Oil and Gas Sector law” which was voted on by the parliament in 2018 and will be studied in details throughout this chapter, obligates the MoEW and LPA to publish the “criteria, conditions, and results of companies’ pre-qualification”, as well as the list of companies participating in the pre-qualification phase thus filling in the transparency precaution gaps which were omitted in the decree (LTA, 2018).

In April 2019, Lebanon’s second off-shore licensing round was announced. LPA published a timeline on its website, as well as details related to the bidding process and pre-qualification. This has allowed CSOs to monitor LPA’s work, specifically through comparing the amendments made from the first licensing round. For example, LOGI

(2019) noted that new criteria do not require companies to submit their internal anti-corruption policies, something they have demanded many times before. While the first licensing round occurred prior to the legislation of the Strengthening Transparency in the Oil and Gas Sector Law, the second licensing round's transparency standards have been up tightened. Despite maintaining the confidentiality of the Tender Protocol's evaluation reports, the MoEW is "required to publish the recommendations of LPA regarding the bidding round, including their ranking", as per article 9 of the law 84/2018 (LOGI, 2019).

The Exploration and Production Agreement (EPA) sets out the contractual elements of exploration and production activities and refers to the agreement between the Lebanese state and the winning consortium formed of at least three Right Holders including one operator responsible for carrying out the day-to-day activities (LPA, 2018). The EPA extends over the exploration phase. It gives the Right Holders the permit to explore oil and gas for five years divided into two periods, and can be extended up to ten years with the approval of the Council of Ministers (LPA, 2018). The EPA also encompasses the appraisal phase in case of discovery of commercial oil and gas, where the Right Holders must propose a development plan to the Council of Ministers, and in case of approval, they will be granted a twenty-five years production phase, subject to a five-year extension in case they are willing to make additional investments. Law 84/2018 on Strengthening Transparency in the Oil and Gas Sector obliges LPA to constantly update information relevant to the results of exploration, discoveries, and details of the bloc in which the petroleum activities are conducted, in addition to "detailed information relevant to production, processing, collecting, storing, transporting, refining activities, and studies about the environmental quality, health, and safety" (LTA, 2018). The law also compels the LPA to disclose financial information, including the fees requested from

companies, cost recovery, production data for each financial year, methodology used for oil evaluation and pricing, the State's share of the companies' profit, quantities and value of petroleum sold and its export destination (LTA, 2018). The same is imposed on the Right Holder companies, which is essential to monitor and confirm the consistency between the reports of both the State and the companies.

Thus, the EPA is one of the principal parts of the Lebanese legal framework for petroleum activities. The publication of EPAs enables CSOs to monitor the activities between Right Holder companies and the government, such as payments (LOGI, 2017). However, according to Article 35 (1) of the EPA, the Right Holder companies must keep the agreement confidential and cannot share it without a "written approval of the MoEW Minister upon the recommendation of the LPA" (LOGI, 2017). While the main body of the EPA has been made public, as well as other regulatory frameworks, LOGI (2017) argues that there is no reason for the Right Holder agreements with the subcontractors to remain confidential, especially that it is with the service providers that corruption becomes facile. Thus the MSG must work towards contract transparency following the EITI standards to safeguard the oil and gas sector, through utilizing anti-corruption mechanisms and reinforcing existing laws such as Access to Information and Strengthening Transparency in the Oil and Gas Sector.

4.2.2 ACCESS TO INFORMATION LAW

The Access to Information law, passed by the Lebanese Parliament in February 2017, is a pillar for enhancing transparency and accountability in public institutions across Lebanon. This law indicates that state institutions must publish on their websites information pertaining to their activities – such as the annual budget and the details of

public funds spending; it also obliges them to respond to any requests to access to information. The shortcomings of this law is that not all public institutions have websites, since many governmental institutions have not digitalized their work yet. Moreover, the request of access to information is usually submitted to the “Information Officer” who in many cases has yet to be assigned due to a lack of funds. Consequently, information requests go unanswered.

Nevertheless, this law is of vital importance especially to the petroleum sector, as it is utilized to “showcase a positive example of governance” (LOGI, 2018). By publishing its financial reports since 2013, laws endorsed and contracts signed, the Lebanese Petroleum Administration has proved to be one of the few governmental institutions to abide by the law. For example, Gherbal Initiative (GI), an organization established in 2018 to “enhance transparency and fight corruption in the public and private sectors”, examined the cooperation of public administrations with the requests of information related to their budgets, specifically their financial statements of the year 2017 (Gherbal Initiative, 2019). According to GI (2019), a number of administrations refused to provide such information “on the pretext of non-enforcement of the law prior to the issuance of implementing decrees” or considering that financial statements are excluded from the law provisions. Others evaded GI’s requests by either providing them with a copy of the General Budget Law or indicating that “the information requested are already published in the Official Gazette” (Gherbal Initiative, 2019). Only 26 percent of the public institutions responded to their requests in writing, as per the law, of which 18 have an assigned information officer. Unlike the MoEW, LPA responded to GI’s request for the administration’s 2017 budget within seven days of receiving it, through providing them with a copy of their annual financial report which “reflects the value of the administration’s budget proposal,

allocation of credits to budget items and profiles, and the disbursement of account” (Ghebral Initiative, 2019). While reaching out to LPA for purposes of this research, Gaby Daaboul¹² responded to my personal request for information one month later, apologizing for the delay, yet remained reserved in answering questions, probably due to my undisclosed political affiliations.

The Access to Information law 2017/28, necessary to enhance transparency and accountability across the Lebanese public sector, has served as a foundation for the legislation of a petroleum-specific transparency law, and has been immediately effective after its publication in the Official Gazette. However, many citizens are not aware of this right, and that allows some public officials to take advantage through abstaining from providing the requested information, which limits the detection of corruption practices. The “Strengthening Transparency in the Oil and Gas Sector Law” is as a provision to combatting corruption specific to the “black gold”.

4.2.3 STRENGTHENING TRANSPARENCY IN THE OIL AND GAS SECTOR LAW

The Transparency in the Oil and Gas Sector law 84/2018 ensures the right to access information pertaining to the management of the Oil and Gas sector in Lebanon. It also grants all citizens access to information related to the development and revenues of the sector, enforcing regulations to help the state prevent corruption, reinforcing transparency through the entire value chain, elaborating clear monitoring frameworks for the implementation of the “National Anti-Corruption Commission”, and allowing eligible CSOs to file complaints (LTA, 2018). Moreover, the jurisdiction of the law includes all

¹² Head of the Legal Department at the Lebanese Petroleum Administration.

onshore and offshore petroleum activities pertaining to public and private sectors, and compels the Lebanese government and Right Holder companies to publish information relevant to the petroleum sector on LPA's website. This, in turn, allows CSOs to monitor petroleum-related activities, thus enhancing transparency.

Under this law, measures to ensure against corruption include prohibiting individuals in public office from investing in any company related to the petroleum sector, either committed to "exploring and extracting oil and gas, companies sub-contracted by them, and companies contracted by the sub-contractor" (LTA, 2018). These individuals include the President of the Republic, his assistants and advisors, and heads of institutions affiliated with the presidency; the Speaker of Parliament, his assistants and advisors, and the members of Parliament; the Prime Minister, Ministers, their assistants, advisors, heads of institutions, commissions, and councils affiliated with the prime ministry; the President and members of the Constitutional Council, the President and members of the Supreme Judicial Council, the President of the Council of the State and its heads of chambers, the President and judges of the Financial Court, the Cassation, Appeal, and Financial General Prosecution judges and the financial General Prosecutor, and the judges and members of acquisition committees; General Directors in governmental office, public office, heads and board directors of public institutions and governmental commissions; Lebanese ambassadors and consuls; heads of security agencies in the country; and finally, heads and members of boards of directors and executives of companies owned by the state and of mixed ownership companies (privately and publicly owned), as well as the first degree relatives of all of the above (LTA, 2018).

Although the law forbids these individuals from investing in petroleum activities, corruption can occur through indirect channels of informal partnerships with business

groups and companies, either directly or through competition for contracts to benefit certain contractors and companies. According to Traboulsi (2014), the oil cartel is composed of 13 import companies, of which seven control 50 percent of the market. The Alpha Group, specifically, controls 60 percent of the benzene market, and is composed of five companies including Hypco, owned by the Bustani family, which has acquired Cogico, the company founded by PSP leader Walid Jumblatt who rented it out to previous MP Nehme Tohme for a million dollars per year; the latter then signed it over to Hypco for a ten-year period (Traboulsi, 2014). Other companies include United Petroleum, Medco Issa Petroleum (IPT) and the Yammin Trading Company, Uniterminals which is a Lebanese joint-stock company 50 percent owned by the Obegi family who also own BEMO Bank and 50 percent by the Kuwaiti Company IPG, and Corral Oil which is owned by a Saudi Arabian businessman Mohamad al Amoudi (Traboulsi, 2014). The Beta Group, on the other hand, controls 15 percent of the market and is made up of Total, which is owned by the French Government and Mobil, previously owned by Walid Jumblatt, Aly Ghandour, and Nabih Berri's "confidante" Jamil Saeed, before being bought by Saudi investors (Traboulsi, 2014). Finally, the third group consists of Medco and IPT, both of which split from the Alpha group in 2011 (Traboulsi, 2014). Medco, one of the oldest oil import and distribution companies in Lebanon is chaired by Maroun Chammas, the current head of the association of petroleum-importing companies while IPT is owned by businessman Michel Issa (Traboulsi, 2014). In addition to the three groups mentioned, there are two "stand-alone" companies, including liquigaz and Arab Petroleum Company (APEC) (Traboulsi, 2014).

Gas, on the other hand, is controlled by a single company which has held the monopoly of gas supply since 1991, Gaz Ach-Charq, and is owned by a Syrian

businessman, Talal Zein. The company is based in Greece where it operates “the largest fleet of has-transport vessels in the Mediterranean” (Traboulsi, 2014). Therefore, in order to mitigate corruption risks, the beneficial owners of the subcontracts must be published, and Right Holders must disqualify companies in which Politically Exposed Persons (PEPs) have direct or indirect interests (LOGI, 2018). While the OPRL requires the companies working in the sector to recruit 80% of their labor from the Lebanese nationality, they demand the MoEW, LPA, Right Holder companies, and sub-contractors to disclose the identity of their employees, which facilitates the process of monitoring and accountability.

Under the provision of this law, CSOs can contribute to strengthening transparency in the sector by “regulating their right to file corruption lawsuits before the National Anti-Corruption Commission or public financial courts until the Commission is created” (LTA, 2018). In fact, Akram Hassan, treasurer of the Public Works, Energy, and Water Parliamentary Committee, claims that the Transparency law allows Parliament direct oversight of the oil and gas sector; it does so by giving Parliament oversight over the MoEW’s work.¹³ Hassan believes that although CSOs have been given the right to legal action under this law, they have been confined by stringent rules which will minimize their actual impact.¹⁴ These include that the board of the CSO must include at least three members with expertise and background in the petroleum sector, a proviso that restricts the eligibility of participation of many CSOs. Another condition is that no member of the CSO can have any family ties of first degree relationship with any of the owners,

¹³ Interview with Akram Hassan, Treasurer of the Public Works, Energy, and Water Parliamentary Committee, January 17, 2019.

¹⁴ Interview with Akram Hassan, Treasurer of the Public Works, Energy, and Water Parliamentary Committee, January 17, 2019.

beneficiary owners, or senior executives in the consortium of companies to avoid any conflict of interest. While the CSOs may file complaints or lawsuits, they should deposit guarantee fees equivalent to fifteen times the minimum wage, creating another barrier for non-profit organizations. In the event that the lawsuit is not deemed as credible or supported by any evidence, the court “rules to pay compensation to the defendant, in addition to paying a fine no less than ten million Lebanese pounds and the confiscation of the deposited guarantee”, noting that the defendant’s petroleum activities may not be suspended until the final verdict is issued (LTA, 2018).

Given the high levels of corruption in Lebanese public institutions, including the Judiciary, the level of confidence and trust in the decision-making process is debatable. Judicial corruption is not limited to financial gains, since it is also tied to the judge’s “professional advancement to his or her favorable dealings with ruling political forces”, as members of the “supervisory judicial bodies” are largely appointed by the government thus influenced by political leaders (Legal Agenda, 2017). According to Legal Agenda (2017), political elite cause corruption in the judiciary through interfering in its work by “inciting and intimidating” judges, lawyers, and even clerks at an administrative level. While the “right to an independent and impartial tribunal is an integral part of the right to a fair trial” which demands States to guarantee the independence of the Judiciary, as mentioned in article 14 of the International Covenant on Civil and Political Rights (ICCPR), Lebanon has “consistently failed to comply with its obligations” (ICJ, 2017). According to ICJ (2017), the Human Rights Committee expressed its “concern about the independence and impartiality of Lebanon’s judiciary”, which doesn’t make it a credible source for safeguarding the oil and gas sector.

By contrast, Rabih Yaghi, an advisor to the Speaker of Parliament on oil and gas affairs, contends that CSOs should not be given a role in the sector, after all, many of their members claim to be petroleum experts when they do not have the ability to differentiate between various types of oil, and are in fact there to disrupt and affect public opinion while seeking opportunities in the field to make money.¹⁵ This, according to Yaghi,¹⁶ affects Lebanon's image and the petroleum sector. He suggests that the government must place strict laws and punish those who are not eligible or qualified to represent or talk about the petroleum sector. Yaghi believes that Lebanon must adopt the Norwegian case which, as aforementioned, has excelled in the management and monitoring of the petroleum sector during all stages. In that case Parliament is responsible for both legislation as well as organizing awareness campaigns all throughout the petroleum production phases, namely by emphasizing transparency and accountability to maintain and secure the petroleum wealth revenues for the future generations.¹⁷ However, Yaghi fails to acknowledge that there are extensive institutional differences between Norway and Lebanon. While the Norwegian institutions are strong and competent, the Lebanese institutions are weak and dismantled. The Lebanese Parliament, for example, is comprised of political party blocs which vote upon the majority. Let alone the Parliamentary system in Lebanon, the sectarian vote and "pie-sharing" culture have continuously proven to halt the decision-making process.

¹⁵ Interview with Rabih Yaghi, Petroleum Engineer and Advisor of the Speaker of Parliament on Oil and Gas affairs, November 1, 2018.

¹⁶ Interview with Rabih Yaghi, Petroleum Engineer and Advisor of the Speaker of Parliament on Oil and Gas affairs, November 1, 2018.

¹⁷ Interview with Rabih Yaghi, Petroleum Engineer and Advisor of the Speaker of Parliament on Oil and Gas affairs, November 1, 2018.

So, limiting the risks of corruption in the oil and gas sector is essential to ensure a solid future for the sector in Lebanon. While legislation is one of the major pillars for ensuring mitigating such risks in a nascent sector, international agreements have proven to be important to exert international pressure to ensure transparency measures.

4.3 INTERNATIONAL AGREEMENT FOR COUNTERING CORRUPTION

The United Nations Convention against corruption which was adopted by the United Nations General Assembly in October 2003 by resolution 58/4, is the only legally binding universal anti-corruption agreement. According to the United Nations Office on Drugs and Crime (UNDOC, 2020), “the convention’s far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to the global problem”. Lebanon has joined the convention on April 22, 2009, and by that has become one of the 186 member parties. As part of the agreement, corruption prevention methods directed at both private and public sectors are declared, and those include “model preventive policies, such as the establishment of anti-corruption bodies and enhanced transparency in the financing of election campaigns and political parties” (UNDOC, 2020). The Convention also ensures that “public services are subject to safeguards that promote efficiency, transparency, and recruitment based on merit”, especially in matters related to public finance which require the establishment of specific measures such as judiciary and public procurement (UNDOC, 2020). According to UNDOC (2020), given that preventing corruption requires a national effort from all members of society, the Convention has called on countries to actively promote the

involvement of non-governmental organizations to raise public awareness on the impact of corruption.

In an effort to tackle Lebanon's corruption, the former Minister of State for Administrative Reform, Amal Movement's Inaya Ezzedine, established a committee to develop a national anti-corruption strategy in 2016. The committee was chaired by the advisor of Prime Minister Saad Hariri, former judge Saeed Mirza, representative of the discriminatory public prosecution Judge Nada al-Asmar, representative of the Court of accounts Judge Bassam Wehbe, representative of the Ministry of Interior and Municipalities Judge Carla Ayrani, representative of the Ministry of Finance Dr. Walid Al-Shaar, and Charbel Sarkis as the representative of the Ministry of State for Administrative Reform (OMSAR. 2020). The committee developed a national anti-corruption strategy with the technical support of UNDP and consultations with representative of the public and private sector, as well as CSOs (OMSAR, 2020). The strategy focuses on "establishing transparency, activating accountability, reducing discretionary in the work of the Administration, and preventing impunity" and recommends the adoption of a "specific sectoral approach such as energy" (OMSAR, 2020). However, while the strategy was approved by previous cabinet headed by former Prime Minister Saad Hariri, President and endorsed by the Lebanese Parliament, President Aoun did not sign and sent it back to the Parliament for review.

The National Anti-Corruption Strategy, which was based on the principles of the International Agreement for Countering Corruption 58/4, will complement the Law on Strengthening Transparency in the Petroleum Sector through ensuring transparency and accountability in Lebanese public institutions. Setting a proper system in place for establishing managing institutions, such as the National Oil Company (NOC) and the

Sovereign Wealth Fund (SWF) when the time is right, is key for success moving forward. The next section examines these pivotal institutions.

4.4 NATIONAL OIL COMPANY

Article 6 of the OPRL states that “only when necessary and after commercial opportunities have been verified can the Council of Ministers establish a National Oil Company (NOC)” (LOGI, 2018). However, in November 2017, MPs Michel Moussa and Ali Osseiran, of the Amal Movement Bloc, submitted a draft law for the establishment of an NOC. The draft law was discussed swiftly and reviewed in a joint parliamentary committee created specifically for this purpose, contrary to what the aforementioned article 6 of the OPRL stipulates (LOGI, 2018).

While LOGI, LTA, and LCPS¹⁸ oppose the establishment of an NOC prior to any commercial discovery because that will add unnecessary expenses to the government’s budget, specifically in terms of the employees’ wages, others argue that an NOC is necessary at the exploration phase. Rabih Yaghi contends that creating an organizational structure for the petroleum sector can only be established with the establishment of a NOC.¹⁹ The NOC will be an executive and commercial branch of the Lebanese state and will serve as the main resource for on-shore and off-shore petroleum activities. Its work includes discussing exploration contracts with interested and eligible companies, moving into partnership, follow-up, and monitoring of contracts implementation to the

¹⁸ Based on Interviews conducted for purposes of this research with Diana Kaissy (LOGI), Dani Haddad (LTA), and Rania Abi Habib (LCPS).

¹⁹ Interview with Rabih Yaghi, Petroleum Engineer and Advisor of the Speaker of Parliament on Oil and Gas affairs, November 1, 2018.

contribution in decision making of the development, production, and marketing of petroleum.

Marcel (2018) believes that “there is no universally optimal time for the establishment of an NOC”. Yet, risks are not only limited to financial ones, but can also be related to governance, depending on the “strength of institutions and quality of political governance” (Marcel, 2018;2). Prior to establishing an NOC, the government must have a clear vision of its role, responsibilities and goals, acknowledging that petroleum discoveries might not be made. One challenge facing the NOC in Lebanon is the confessional structure of its staff, exposing it to corruption and failure. According to Marcel (2018), Lebanon’s confessional system which is based on appointing political and administrative positions to confessional communities will challenge the recruitment process of qualified, professional, and independent staff. Marcel (2018) also argues that the “efficiency of the NOC will likely be affected by the practice of patronage and nepotism”.

While potential benefits of the NOC mostly increase during the production phase, which will take a few years, the Lebanese government must hold off on forming an NOC and focus on having a solid vision for its oil and gas sector, investing in the development of skills and expertise in the field, and improve the quality of political governance through combatting corruption and promoting transparency and accountability into the culture of its public institutions. The Sovereign Wealth Fund is another institution paramount to the future of the oil and gas sector in Lebanon.

4.5 SOVEREIGN WEALTH FUND

Lebanon has hitherto proven to be terrible at managing its public expenditures, as the current overlapping economic and financial crisis suggests. Widespread corruption across all Lebanese public institutions may be exacerbated with the availability of petroleum wealth, as the resource curse suggests. A Sovereign Wealth Fund (SWF) is a “government-owned special purpose investment fund” used for general macroeconomic purposes, which do not have liabilities and invest at least partly in foreign assets (Jamali and Le Borgne, 2014). According to the OPRL, proceeds from Lebanon’s petroleum activities must be placed in a savings fund. Article 3 stipulates that “The statute regulating the Fund, the rules for its specific management, the principles of investment and use of proceeds shall be regulated by a specific law, based on clear and transparent principles for investment and use of proceeds that shall keep the capital and part of the proceeds in an investment fund for future generations, leaving the other part to be spent according to standards that will guarantee the rights of the State and avoid serious, short or long- term negative economic consequences” (Jamali and Le Borgne, 2014).

Thus, SWFs save, manage, and administer resource revenues in order to achieve financial objects aligned with their goals. According to LOGI (2017), there are several reasons why governments choose to establish a SWF, including that traditional budgets are set on annual basis, whereas funds can serve as multi-year funds. Funds can also be used to “ earmark revenues” for specific purposes, and can protect “specific stock of fiscal revenues from political interference” such as pension funds (LOGI, 2017: 5). Most importantly, SWF are subject to firm transparency, oversight, and governance measures which is a much needed anti-corruption measure.

However, establishing a SWF has several drawbacks. Given the difficulty to manage them, SWFs may undermine public financial management systems and accountability, especially in less institutionalized states (LOGI, 2017). Also, many funds fail to achieve macroeconomic or policy objectives, since they do not have an “inflow, outflow, or investment rules” which are necessary to achieve their objectives (LOGI, 2017: 4). Other risks include high management fees due to the services provided, as well as being sources of patronage or corruption through their asset purchase (LOGI, 2017). Therefore, SWFs can be an effective resource management tool, cross-country evidence reveals. However, when not properly designed, significant drawbacks can rise.

According to LOGI (2017), there are several proposed SWF bills at the Lebanese Parliament. The Lebanese Sovereign Wealth fund Bill establishes two sub-funds, including a Saving Portfolio which aims to “invest petroleum revenues for the benefit of future generations” where the returns on state equity are deposited and a may partly be used to finance government expenditure, and a Development Portfolio which is designed to reduce the level of public debt and deposits tax revenues from petroleum companies and “may be used to pay the public debt until the debt level reaches 20 percent of the Gross National Product (LOGI, 2017; 9). There are no clear percentages in regards to how much funds each portfolio would get, and in that case, given the current economic crisis facing Lebanon, most funds will be spent from the Development Portfolio to pay back the public debt, instead of using them for development purposes. While using revenues to pay part of Lebanon’s massive public debt is of vital importance to Lebanon’s economy, it is also equally important for the country to benefit from such revenues for developmental purposes. Leenders (2015) argues that only one-third of petroleum revenues must be allocated to pay off parts of Lebanon’s debt. LOGI (2017) argues that the bill does not

contain any “concrete prohibitions on asset allocation” and leaves “significant discretion to fund managers” in a way that makes it vulnerable to corruption and patronage. Thus, it is important to carefully set the rules of who and how the SWF would be managed to safeguard its independence from any political intervention (Leenders, 2015).

4.6 CONCLUSION

This chapter examined the most significant legislation related to the petroleum sector, demonstrating the influential role of Parliament in the oil and gas sector. While the Lebanese Parliament has endorsed laws as anti-corruption measures in the petroleum sector, it has failed, so far, to exercise its role as an oversight body and in developing an overall vision for the sector. Parliament has failed in setting accountability frameworks and monitoring mechanism, and was consequently unable to hold the government accountable when the sector “stalled for more than three years” during the presidency void (LCPS, 2019;7). The main challenges facing the petroleum sector include the lack of policy agreement among decision makers, which reflects poorly on the state’s performance in the sector, Lebanon’s public debt, which has negative implications on the sector and economic growth, and the government’s poor service provision in electricity, water, and telecommunications, which alienates foreign investors.²⁰ Corruption “erodes the quality of life” in society and undermines democracy and good governance (UNDOC, 2004). While the Oil and Gas sector can be a savior to Lebanon’s economic and socioeconomic crisis, it can also be a resource curse and lead to further corruption if not

²⁰ Interview with Rabih Yaghi, Petroleum Engineer and Advisor of the Speaker of Parliament on Oil and Gas affairs, November 1, 2018.

well-managed, and that can only be achieved through solid legislation and strict implementation which could advance the rule of law and enhance effective governance.

CHAPTER FIVE

CONCLUSION

5.1 RESTATING THE ARGUMENT

The central argument of this thesis is that Lebanon must strengthen its accountability mechanisms through enhancing transparency in legislative work and by enabling CSOs' monitoring capabilities to ensure proper oversight of the nascent oil and gas sector, thus protecting it from corruption risks. After all, the guiding principle to fighting corruption is through building partnerships between government, businesses, and civil society (Transparency International, 2018). Corruption cannot be abolished all at once, but is rather a long process of transformation in governance practices, public policies, and even citizen behavior.

This thesis examined the role of CSOs in promoting transparency in the oil and gas sector, specifically through studying the implications of LOGI, LTA, and LCPS's work. While they contribute to oversight of the sector, they face many challenges doing so, specifically from the consociational power-sharing structure of governance in Lebanon and the dominant role political parties play in the decision making process. However, despite the challenges facing CSOs, they continue to closely monitor the government's work in the sector as well as advocate for more effective policy legislation and reform, and raise citizen's awareness about the petroleum sector. This thesis also explored policy options to reduce corruption risks in the oil and gas sector through closely examining pivotal petroleum legislation related to anti-corruption, transparency, and access to

information, as well as assesses resource management institutional prospects such as the NOC and SWF. While the Lebanese Parliament and government have endorsed anti-corruption measures in the petroleum sector, they have failed, so far, in developing an overall vision for the sector.

Alina Mungiu Pippidi's theory on anticorruption claims that states with "competitive particularism" usually have disputed and uneven power distribution, contested state ownership, unequal and unjust distribution of public goods (Sobh, 2016). Pippidi (2006: 88) argues that particularism is usually robust because of its "capacity to keep open channels for upward mobility such as marrying into the right family or catering to the right patron, so that social entrepreneurs are more tempted to use those channels than to overthrow the whole system". She proposes a model of "legislation and initiative" to combat corruption (Sobh, 2016). It is composed of four steps, including building an "insurrectional army" of those who suffered losses from corruption, instituting democratic norms of "universalism", pushing for the adoption of anti-corruption "weapons" such as transparency legislation and compulsory disclosure of wealth by politically exposed persons, and incentivizing transparency (Sobh, 2016). She also warns that combatting corruption "might look like civil war, but as the history of democracy shows, civil wars are sometimes needed to advance the cause of accountable government" (Pippidi, 2006;96). While Lebanon cannot afford another war, the road to combatting corruption, a robust phenomenon inside Lebanese institutions but also within its culture, will be a rough one. The significance of Pippidi's model is its combination of anticorruption legislation and initiatives with measurable, scientific-like results (Sobh, 2016). Consequently, and to safeguard the petroleum sector from corruption entrenched in Lebanese governance institutions, the government must first establish an overall vision for the sector, develop

policies related to the technical and financial management of the sector, accentuate the advisory role of CSOs in monitoring and oversight, and foster reforms to ensure the independence of the judiciary which will have a direct influence not only on ensuring anti-corruption mechanisms in the oil and gas sector, but also on all other sectors across the Lebanese State. If Lebanon is to become a producer of oil and gas, comprehensive administrative reforms must take place across all sectors to enable good governance capabilities, starting from the judiciary system. As Leenders (2015) argues, corruption and inefficiency within Lebanon's courts will eventually compromise the petroleum industry, especially during times of economic and financial crisis.

This thesis also studied the impact of CSOs on enhancing accountability and transparency in the oil and gas sector in Lebanon to decipher their current role and identify gaps to enhance their potential future contribution to the sector. Moreover, examining legislative options to reducing corruption risks contributes to determining challenges in the extractive industry for the purpose of more effective management. Yet, despite efforts of both CSOs and policy makers in protecting this nascent sector, one has to take into consideration Lebanon's structural problems that stem from the poor management of public institutions, widespread corruption, clientelism, and sectarianism as a basis to every decision. Indeed, Carole Nakhle (2020) argues that the resource curse has hit Lebanon "without even exploring the resource yet", and links the uprising which Lebanon has witnessed since October 17, 2019 to the "poor management of the local economy, short-sighted policies driven by personal interest taking precedence over national interest, and corruption". The government has actually promoted unrealistic expectations related to the petroleum sector in terms of revenues and benefits including free education, healthcare, employment opportunities, and pensions (Nakhle, 2020). Furthermore, President Michel

Aoun in a speech addressing the public on October 31, 2019, along with other leaders from FPM and Amal Movement, exaggerated the role which oil and gas revenues could play in terms of saving the economy from its current meltdown. All this even before any oil discovery has been made, and where the presence of oil and gas is simply theoretical, to say nothing of the years the sector needs before it can benefit from oil and gas discoveries. As Nakhle puts it, the situation of the oil and gas hype in Lebanon is tantamount to “selling fish in the sea” (2020).

After all, as the experience of many resource-rich countries demonstrates, it is very easy for the black gold to be a curse instead of an asset. The literature on the resource curse warns that countries rich in natural resources such as oil and gas achieve lower economic growth and tend to be more corrupt than those with scarce resources (LOGI, 2018). That is mainly a consequence of the quality of institutions, and the “effectiveness of checks and balances on power” as weak democracies which “thrive on rent-seeking and patronage-driven electoral competition” have high exposure to the “ill effects” of extracting natural resources (Atallah and Fattouh, 2019:3). For example, and with only the *expectation* of petroleum discovery, Ghana has increased “borrowing, consumption, and government spending” which has eventually led to IMF intervention and support with financial assistance (LOGI, 2018). Thus, the absence of robust accountability and oversight mechanisms make Lebanon an easy candidate to catch the resource curse.

Another challenge facing the sector is the maritime border dispute with Israel. The dispute unfolded when Cyprus and Israel signed a maritime border agreement which included parts of Lebanon’s Exclusive Economic Zone (EEZ) as Israel’s. Middle East Strategic Perspective (2018) demonstrates that the overlap is over an 856 km² triangle in the sea, and is due to the discrepancy in outlining the series of points that form the median

line between Cyprus and Lebanon in the maritime border agreement with Cyprus in 2007, followed by the UN Convention on the Law of the Sea (UNCLOS). However, this agreement was never ratified by the Lebanese Parliament and was replaced by a different set of coordinates in April 2009 determined by a Lebanese commission and approved by the government on May 13, 2009 and by Parliament in August 2011 (MESP, 2018). Since Block 9 has been awarded, which covers 1742 km² of which around 145 km² falls within the disputed area, questions arise on whether the drilling company, Total, will be committed to its work or to geopolitical considerations.

5.2 FUTURE PROSPECTS AND RECOMMENDATIONS

The oil and gas sector has so far been a farfetched dream to the Lebanese, and now that petroleum exploration has begun, in the hope of potential discovery, corruption is the main concern. This thesis proposes mitigating corruption risks of the oil and gas sector through emphasizing oversight mechanisms by CSOs and strengthening policy options related to the petroleum sector. Lebanon's civil society must use this opportunity to "find common ground in demanding transparency and accountability, and jointly scrutinize every aspect of how the sector will be managed" (Leenders, 2015;31). It is also important for civil society to join forces and complement rather than duplicate each other's work. However, not only must CSOs serve as watchdogs, they should also actively participate in and provide advice on bid evaluations, contract monitoring, and the overall sector management (Leenders, 2015). It is also necessary for the government, with the support of LPA, on one hand, and CSOs on the other, to address the gaps related to institutional capacity in combatting corruption, the implementation of Access to Information and

Strengthening Transparency in the Oil and Gas Sector laws, as well as decisions related to establishing and regulating the Sovereign Wealth Fund and National Oil Company.

A comprehensive petroleum strategy developed by the Lebanese Government on the management of the petroleum production stages is necessary to ensure development and avoid the resource curse. The success of the oil and gas sector will ultimately depend on how strictly anti-corruption mechanisms are implemented across public and private institutions in Lebanon. Accountability mechanisms must be set up to avoid kleptocracy and ensure transparency in conducting petroleum related activities as well as revenue management. Both the Access to Information and Strengthening Transparency in the Oil and Gas Sector laws must be enforced, and institutions must comply with the rules and regulations of these laws, thus enabling CSOs to better conduct their oversight and ensure proper implementation. According to Ouais (2020), civil society in Lebanon has “paved the way for institutional reforms” including those related to better governance and greater transparency. Thus, their advisory role must be elevated. Subsequently, such measures will then create an enabling environment for the establishment of new solid institutions, when necessary. The decision to inaugurate a SWF and NOC should be carefully considered and taken only after confirming the discovery of oil and gas as a result of the exploration phase. Lynch and Salloukh (2020) argue that civil society is not separate from the state nor the political economy, for both are in fact “constituent parts of a political field not defined by the exclusive authority of state actors”. Thus, if both the government and CSOs work together on addressing the loopholes in the system and assimilate the lessons learned and best practices to avoid the resource curse, Lebanon can manage to optimize its gains from the oil and gas sector, thus relaunching its economic development

from the current ruins. Yet, as this thesis has demonstrated, such prospects are truly daunting.

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APPENDIX

Interview Questionnaire:

How would you describe and assess the management of the Petroleum Sector in Lebanon?

What is the role of your Organization in the Oil and Gas sector in Lebanon?

How has oil and gas policy progressed in Lebanon? What are the significant events?

Which individuals, organizations, or institutions had significant influence on the natural gas and oil policy?

What are you/ your organization doing to promote and ensure transparency in the oil and gas sector in Lebanon?

- *Do you believe that the Extractive Industries Transparency Initiative (EITI) will help in mitigating corruption in that sector?*
- *In your opinion, could the oil and gas sector lead other institutions by example, particularly in terms of transparency?*

How do you assess the performance of the Lebanese Petroleum Administration?

Do you support the establishment of a sovereign wealth fund? Why or why not?

Do you support the establishment of a National oil company? Why or why not?

Do you believe that the public institutions and civil society organization's partnership is important and essential for development in various sectors in Lebanon, particularly oil and gas?