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Rebel Oil Companies and Wartime Economic Governance in the MENA

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Executive summary

Oil smuggling has become a major feature of the war economies across the MENA region but the contest is not just for physical possession of oil through seizure and looting. Equally important is the political, legal and symbolic battle for ownership and authority to manage and dispose. Even as national economies splinter and collapse, the formal institutions of economic governance have unique capabilities and prerogatives and accordingly become focal points of contestation between rebel actors and governments. Rebels in Yemen, Iraq and Libya have launched alternative financial institutions, including national oil companies, central banks and other financial institutions, tied to petroleum sales. Such entities, unlike secretive smugglers, court publicity and tout their legitimacy and legality. This paper argues that these rebel oil companies and the attendant financial institutions are not merely facilitators of fraud but components of rebel governance and diplomatic strategies to enhance the durability of rebel rule. Rebel national oil companies (NOC)s and related institutions serve as points in conflict financing, facilitating the conversion and integration of illicit revenue into streams of normal or licit financial operations. They ease rebels' linkage into global markets for oil and other natural resources.

Keywords: Oil; smuggling; sovereignty; rebel governance; Libya; Yemen; Iraq

Introduction

Oil smuggling has become a major feature of the war economies across the MENA region.[1] The media provide lurid details of missing tanker convoys, unregistered ships, shadowy brokers and armed assaults on remote gas plants, pipelines, refineries and depots. As important as physically controlling these facilities is, the need to exert legal authority is equally salient. Even as national economies splinter and collapse, national oil companies (NOCs), central banks and other formal state institutions that act as stewards or custodians of economic resources remain extremely powerful. Their unique capabilities and legal prerogatives make them focal points of contestation.[2] Rebel actors have often sought to circumvent the officially-sanctioned organs by creating their own alternative organisations and corporations. Such entities, unlike secretive smugglers, court publicity and announce themselves in press releases, websites and bank statements. They seek to legitimate themselves, both in the eyes of their own populations, in whose name they purportedly operate, and in the eyes of the international actors that serve as their customers and collaborators.

This paper argues that rebel oil companies and attendant financial institutions are not merely instruments of fraud, an extension of illicit smuggling by other means, but components in rebel governance and diplomatic strategies. Rebel NOCs and their related rebel central banks are points of interface in conflict financing, facilitating the conversion and integration of illicit revenue into streams of normal or licit financial operations.[3] The article proceeds in three sections. The first discusses the emergence of rebel oil as armed groups move from seizing physical control over oil to asserting the right to own and manage

1 Eaton, T. et al., (2019) Conflict Economies in the Middle East and North Africa, Chatham House Report, June 25, 2019, https://reader.chathamhouse.org/conflict-economies-middle-east-and-north-africa#

2 Heydemann, S. (2018). "Civil War, Economic Governance & State Reconstruction in the Arab Middle East." *Dædalus* 147(1): 48-63.

3 Mayntz, R. (2017). Illegal Markets: Boundaries and Interfaces between Legality and Illegality, in J. Beckert and M. Dewey, eds., *The Architecture of Illegal Markets,* Oxford University Press.

oil infrastructure. The second offers a case study of the conflict over the Libyan National Oil Company (LNOC), where rebels associated with the eastern government not only took control of oil wells but also set up an alternative NOC. The third section extends the discussion to other MENA cases and considers the long-term ramifications of rebel oil and its effects on post-war conciliation and state-building.

Expropriation, Ownership and the Role of Rebel Oil Companies

Petroleum is the most valuable and widely traded commodity in the global economy. However, the wealth derived from oil exports contributes directly to economic underperformance, maladministration, authoritarianism and violence.[4] The reason oil so often seems cursed relates to the political and economic structures that surround its extraction and exchange. The most negative social and economic outcomes come in countries where oil is treated as state property and placed under NOC management.[5] NOCs have accumulated a growing and often contradictory list of responsibilities. The primary job of an NOC is to manage the oil sector and negotiate with foreign investors. In this sense, the NOC maintains a monopoly over the right to dispose of national oil wealth. Revenues from oil sales are used to fund NOC operations or passed on to the central bank and treasury. However, states also assign additional functions to NOCs, such as downstream refining, retail distribution and importing oil goods. With typically weak oversight and poorly-defined objectives, NOC operations tend toward economic inefficiency and political opacity.[6]

As consequential as NOCs and state oil ownership are in setting the broad trajectories of economic and political development, their role in civil wars and conflict has been largely ignored.[7] Most studies instead focus on the ability of rebel groups to seize or expropriate physical control over oil, selling it off to help finance their military operations and governance.[8] Findings on this point have been equivocal.[9] Oil wealth can provide states with revenue to fund military build-ups that overawe rebels or to buy off would-be agitators.[10] Oil can also certainly be a fodder for grievances, especially

4 Ross, M. (2006). "A closer look at oil, diamonds, and civil war." *Annual Review of Political Science*. 9: 265-300; Ross, M. (2012). *The Oil Curse: How Petroleum Wealth Shapes the Development of Nations*. Princeton University Press.

5 Jones Luong, P. and E. Weinthal (2010). *Oil is not a curse: Ownership structure and institutions in Soviet successor states*, Cambridge University Press; Victor, D. G. (2013). "National oil companies and the future of the oil industry." *Annual Review of Resource Economics* **5**(1): 445-462; Khanna, A. A. (2017). "Revisiting the Oil Curse: Does Ownership Matter?" *World Development* 99: 214-229; Closson, S. (2012). "Challenging the Consensus on the Oil Curse." *International Studies Review* 14(2): 346-348.

6 Marcel, V. (2006). *Oil Titans: National Oil Companies in the Middle East*, Brookings Institution Press; Cheon, A. et al. (2015). "Instruments of political control: National oil companies, oil prices, and petroleum subsidies." *Comparative Political Studies* 48(3): 370-402.

7 For a few exceptions, see Jones Luong, P. and E. Weinthal (2006). "Rethinking the resource curse: Ownership structure, institutional capacity, and domestic constraints." *Annual Review of Political Science* **9**: 241-263; Wegenast, T. (2016). "Oil, Natural Gas, and Intrastate Conflict: Does Ownership Matter?" *International Interactions* 42(1): 31-55; Costello, M. (2018). "Oil and Gas Rents and Civilian Violence in the Middle East and North Africa, 1990–2004: A Resource Curse, or Rentier Peace?" *Social Sciences* 7(3): 39.

8 Lujala, P., et al. (2005). "A diamond curse? Civil war and a lootable resource." *Journal of Conflict Resolution* 49(4): 538-562; Snyder, R. (2006). "Does lootable wealth breed disorder? A political economy of extraction framework." *Comparative Political Studies* (8): 943; Sobek, D. and C. G. Thies (2015). "Civil wars and contemporary state building: Rebellion, conflict duration, and lootable resources." *Civil Wars* **17**(1): 51-69.

9 Di John, J. (2007). "Oil abundance and violent political conflict: A critical assessment." *The Journal of Development Studies* 43(6): 961-986; Le Billon, P. (2010). "Oil and armed conflicts in Africa." *African Geographical Review* 29(1): 63-90; Basedau, M. and T. Richter (2014). "Why do some oil exporters experience civil war but others do not?: investigating the conditional effects of oil." *European Political Science Review* 6(4): 549-574.

10 Basedau, M. and J. Lay (2009). "Resource curse or rentier peace? The ambiguous effects of oil wealth and oil dependence on violent conflict." *Journal of Peace Research* 46(6): 757-776.

when citizens feel they are not getting their fair share.[11] Beyond physically looting and re-selling oil, rebels are involved in extorting oil facilities, demanding payments to allow them to continue their operations.[12]

But why do rebels go to the trouble of erecting parallel NOCs and the adjacent architecture? To understand NOCs, it is necessary to consider the interaction between oil's physio-chemical composition and its symbolic value. The value chain of oil encompasses physical and chemical processes that affect oil materially (i.e. exploration, transportation and refinement) and symbolic transformations (i.e. financing, marketing and distribution) that deal with legal ownership and assigning monetary value.[13] NOCs are critical in both the physical and symbolic transformations. As agents of sovereign states, NOCs convey ownership at purchase, often to international purchasers. The monetary proceeds received from international sources on behalf of the state are retained for NOC operations or passed to the treasury or central bank. NOCs' certitude of title and monopoly standing facilitates buying and selling and serves as the bedrock of the globalised petroleum market.

Periods of state weakness, civil war and revolution alter the physical disposition of resources and complicate the ownership claims surrounding oil.[14] Rebels contest the old regime's claim to act on behalf of the people, including its right to dispose of oil and other resources in the national patrimony. This situation of 'revolutionary sovereignty' confounds other states, which must decide whether and how to engage with rebel actors that proclaim themselves the rightful bearers of sovereignty.[15] International investors and purchasers face similar uncertainty and confusion about which party has authority to transact on behalf of the state. The result is a market for state-owned goods that is increasingly fragmented, opaque and inefficient. Illegal oil, like a stolen car, is physically indistinguishable from oil which is obtained legally. However, without the guarantee of ownership, buyers and sellers cannot rely on legal enforceability to conduct their transactions. Instead, they rely on reputation and interpersonal trust. Sophisticated international oil companies, accustomed to operating in a transparent market and relying on legal certainties of title and ownership, are often wary of these kinds of dealings. They risk fines, seizures of assets, embargos from the international community and boycotts from national governments as punishment for dealing in contraband. Lenders are hesitant to finance transactions that might involve contested property as collateral. When the larger more sophisticated buyers hold back, smaller buyers come forward. Their behaviour is comparable in many ways to a chop shop that fences stolen goods. They can demand a price discount to compensate for the assumed ownership risk. Contraband sellers consequently incur substantial opportunity cost in each transaction and never realise true market prices.[16] The scale of losses due to title risk are difficult to ascertain.[17] Indicative, but still anecdotal, evidence comes from Islamic State (IS), which dominated smuggling networks, refineries and a handful of oil wells along the Turkey-Syria-Iraq borders. IS famously used oil revenue to finance its army, subsidise food and basic services, and pay salaries to civil servants and administrators. However, while oil helped IS become

11 Lujala, P. (2010). "The spoils of nature: Armed civil conflict and rebel access to natural resources." *Journal of Peace Research* 47(1): 15-28; Watts, M. (2001). "Petro-violence: community, extraction, and political ecology of a mythic commodity" in N. Peluso and M. Watts, eds., *Violent environments* (Cornell University Press), 189-212; Le Billon, P. and A. Cervantes (2009). "Oil prices, scarcity, and geographies of war." *Annals of the Association of American Geographers* 99(5): 836-844.

12 Ocakli, F. and M. Scotch (2017). "Oil-Fueled Insurgencies: Lootable Wealth and Political Order in Syria, Iraq, and Nigeria." *Journal of Global Security Studies* **2**(1): 74-88.

13 Tordo, S. (2011). *National Oil Companies and Value Creation*, The World Bank.

14 Engwicht, N. (2017). "We Are the Genuine People": Legality and Legitimacy in the Sierra Leonean Diamond Market, in J. Beckert and M. Dewey, eds., *The Architecture of Illegal Markets*. Oxford University Press.

15 Lawson, G. (2019). *Anatomies of Revolution*, Cambridge University Press.

16 Beckert, J. and F. Wehinger (2012). "In the shadow: Illegal markets and economic sociology." *Socio-Economic Review* 11(1): 5-30.

17 Bohn, H. and R. T. Deacon (2000). "Ownership risk, investment, and the use of natural resources." *American Economic Review* 90(3): 526-549; van der Ploeg, F. (2018). "Political economy of dynamic resource wars." *Journal of Environmental Economics and Management* 92: 765-782.

a wealthy militant group, it remained impecunious as a state-like entity. IS's oil operations were hampered by technical and commercial inefficiencies. The bulk of the oil revenue went to middle-men and brokers, not into IS coffers.[18] IS allegedly proffered smuggled Syrian oil at $35 in 2014, a period when prices in New York and Dubai were closer to $100. Similarly, IS-originated diesel reportedly sold at forty percent below the government-subsidised rate.[19]

Rebel NOCs seek to mitigate the effects of illegality. Through symbolic manoeuvring they provide a plausible legal imprimatur that confirms ownership and turns contraband into a legal commodity. This narrows the uncertainty premium and nudges the market back toward efficient dynamics. In Libya, for example, the rebel NOC based in the east reportedly offered oil at a $5 per barrel discount compared to the Tripoli NOC—far more advantageous terms than what IS could command.[20] Rebel NOCs that cannot displace the incumbent ruler can still offer the promise of oil pending victory, so-called 'booty futures.'[21] "We are ready to act according to US policy if the US will protect us from the wolves," said Iraqi Kurdish Mulla Mustafa Barzani in the midst of the Iraqi civil war of 1973. "In the event of sufficient support we should be able to control the Kirkuk oilfields and confer exploitation rights on an American company."[22]

The contestation for physical control in civil wars interlinks with the struggle to supplant the state symbolically. Parliaments-in-exile and interim governments seek to substitute the incumbent regime in the domestic and international arena. Rebels also develop deeper institutions for governance, including courts, tax collection, subsidies and schools.[23] Rebel NOCs are part of this broad thrust of rebel governance and diplomacy. They employ workers and handle domestic fuel distribution, a key component of the national economy. However, they also seek to engage with international financial institutions, including private oil companies and banks, and international institutions such as the World Bank and the IMF. Gaining access to these overseas institutions, even provisionally, can be critical to the viability of rebellion. These parallel institutions warn foreign investors against continuing to do business with the 'official' state-affiliated NOC. If the incumbent regime falls, the new regime could nullify previous agreements because they were not conducted with the proper authorities and constituted theft from the people. In 1978, for example, Ayatollah Khomeini warned foreign governments that supported the Shah that once the Islamic government gained power it would abrogate bilateral treaties and deny them access to Iranian oil. Indeed, one of the first acts of Khomeini's revolutionary government was to nullify existing oil contracts, which it claimed were predatory and corrupt.[24] Unlike the anonymous smuggler, rebel NOCs operate through explicit declarations that set public expectations of behaviour. Their tools for legitimation are symbolic and legal: legislative acts,

18 Hansen-Lewis, J. and J. N. Shapiro (2015). "Understanding the Daesh economy." *Perspectives on Terrorism* 9(4): 142-155; Do, Q.-T. et al. (2018). "Terrorism, geopolitics, and oil security: Using remote sensing to estimate oil production of the Islamic State." *Energy research & social science* 44: 411-418.

19 Giglio, M. (2014). "This is how ISIS smuggles oil," BuzzFeed, November 3, https://www.buzzfeednews.com/article/mikegiglio/this-is-how-isis-smuggles-oil; Pizzi, M. (2014), "Islamic State's bootleg petro-state may prove unsustainable" Al Jazeera, August 23, http://america.aljazeera.com/articles/2014/8/23/islamic-state-oil.html

20 UN Security Council Document S/2018/812, Panel of Experts on Libya, September 5, 2018, p. 36.

21 Ross, *The Oil Curse*, p. 174; Humphreys, M. (2005). "Natural resources, conflict, and conflict resolution: Uncovering the mechanisms." *Journal of Conflict Resolution* 49(4): 508-537; Walsh, J. I., et al. (2018). "Funding rebellion: The Rebel Contraband Dataset." *Journal of Peace Research* 55(5): 699-707.

22 Cited in McDowall, D. (2003). *Modern History of the Kurds*, IB Tauris, p. 333.

23 Mampilly, Z. C. (2012). *Rebel rulers: Insurgent governance and civilian life during war*, Cornell University Press; Arjona, A., et al. (2015). *Rebel Governance in Civil War*, Cambridge University Press; Coggins, B. L. (2015). "Rebel diplomacy: Theorizing violent non-state actors' strategic use of talk." In A. Arjona et al., eds. *Rebel Governance in Civil War*, 98-118; Huang, R. (2016). "Rebel diplomacy in civil war." *International Security* 40(4): 89-126. For application to the Middle East, see Rangwala, G. (2015). "The creation of governments-in-waiting: The Arab uprisings and legitimacy in the international system." *Geoforum* 66: 215-223; Ahram, A. I. (2017). "Territory, Sovereignty, and New Statehood in the Middle East and North Africa." *The Middle East Journal* 71(3): 345-362.

24 Nikazmerad, N. M. (1980). "A chronological survey of the Iranian Revolution." *Iranian Studies* 13(1-4): 327-368.

articles of incorporation, legal opinions, tenders, bank accounts and wire transfers.

The Battle for the Libyan National Oil Company

Competition for control over oil has been a major theme in Libya's repeated rounds of civil war since the 2011 uprising. Libya has long been a kind of quintessential rentier state. It has some of the largest oil and gas reserves in Africa. Oil rents account for approximately a third of the country's GDP and nearly all of its export revenue. The government had long maintained subsidies on consumer oil products and used oil revenue to fund development projects.[25] Nevertheless, the 2011 uprising began in the oil-rich eastern region of Cyrenaica. Early on, there were efforts to block or deny adversaries access to oil. A sheikh of the Zuwayah tribe threatened to sabotage oil pipelines if security forces continued to attack protesters. Regime officials also warned of dire consequences if oil was disrupted.

The contest to gain physical control over oil was intertwined with an effort to assert legal title, the right to dispose of oil and receive the proceeds from sales. Qaddhafi tried to use oil sales to cement diplomatic relationships and support abroad, particularly with Britain, France and Italy. As the crisis intensified in 2011, Qaddhafi continued to try to solicit foreign investment in the oil sector in the hope of gaining or maintaining allies abroad. At the same time, the Transitional National Council (TNC), the leading opposition organ that had formed in rebel-held Benghazi, lobbied for a freeze on Libya's oil sales and other assets. Libya's wealth, it proclaimed, should benefit its people not bolster the Qaddhafi regime. The UN placed embargos and freezes on Libyan oil and other assets. France was the first government to grant the rebel TNC recognition in March 2011. Other countries, including the US, Qatar, Australia, Great Britain, Spain and Russia eventually followed suit, although many refused to cut ties with the incumbent regime that remained in Tripoli.[26] The legal status of Libyan oil became increasingly murky. Leonardo Bellodi observed that Libya's oil inhabited a strange grey zone between licit and illegal, where "the Tripoli regime, legal owner of the resources, was subject to an international embargo, [but] any company that bought oil from the [TNC] was open to the risk of a suit brought by the incumbent national oil operator. This left many potential customers unwilling to run the risk of making deals with Benghazi [i.e. the TNC]."[27]

The situation on the ground was even more complicated. Despite its international recognition, the TNC lacked control over most of the country. Qaddhafi loyalists remained entrenched in Sirte and Tripoli. Moreover, the local revolutionary committees that had sprung up in so-called liberated zones operated independently and offered the TNC only nominal allegiance. Many had direct bilateral ties with foreign sponsors, including Qatar, Turkey, the UAE and various European powers. This condition of ruptured sovereignty endured even after Qaddhafi's capture and killing in October 2011, effectively ending the first civil war.

The TNC and its successor government, the General National Congress (GNC), struggled to maintain physical control over oil fields, pipelines, refineries and export terminals. With the Libyan security services in tatters, the government assigned former revolutionary militias paramilitary duties, such as in the Petroleum Facilities Guard (PFG). These forces operated more or less as free agents without effective oversight by central authorities. In July 2013, PFG commander Ibrahim Jadhran, a former revolutionary fighter and criminal, seized the export hubs around Sidra. Many observers dismissed Jadhran as merely another opportunistic thug who could siphon off oil wealth. Jadhran, however, raised a new kind of political claim not just to the physicality of oil but to its ownership. He announced his support for the separatist movement that had emerged

25 Vandewalle, D. (2018). *Libya Since Independence: Oil and State-Building*. Cornell University Press.

26 On the international politics surrounding the TNC, see Talmon, S. (2011). "De-Recognition of Colonel Qaddafi as Head of State of Libya" *International & Comparative Law Quarterly* 60(3): 759-767; Chivvis, C. S. (2013). *Toppling Qaddafi: Libya and the Limits of Liberal Intervention*, Cambridge University Press.

27 Bellodi, L. (2012). "Libya's Assets and the Question of Sovereignty." *Survival* 54(2): 39-45.

in Cyrenaica after the revolution. Many of the major tribal and political forces in eastern Libya had become increasingly alienated from the Tripoli government. In 2012 a group unilaterally declared the formation of a Cyrenaica regional legislature and governing authority. The separatists demanded a reversion to Libya's original 1951 constitution, which had granted broad autonomy to Cyrenaica, Tripolitania and the Fezzan as the original provinces constituting the Unified Kingdom of Libya. One of the key issues was oil wealth. Libya's original constitution of 1951 had granted Cyrenaica exclusive purview over its own oil, which consisted of the bulk of the country's natural resource wealth. However, Cyrenaica had half the population of Tripolitania and was less economically developed. In 1963, King Idris unilaterally promulgated a new constitution and placed oil revenue in the hands of the central government in Tripoli. The process of centralisation further accelerated under Qaddhafi.[28] In taking over the export terminals in 2013, Jadhran insisted that his actions were part of reclaiming Cyrenaica's rightful autonomy.[29] He announced the formation of the Cyrenaica Political Bureau (CPB) and a 20,000-man army comprised of his PFG units and tribal fighters.[30] The CPB solicited foreign oil tenders through its own oil company. CPB officials emphasised that they intended only to retain Cyrenaica's share of the revenue and set aside Tripolitania's and Fezzan's, the other two original Libyan provinces. Jadhran hired lobbyists to try to gain favour with the U.S. and Russia, offering assurances of access to cheap oil. Rumours swirled about shady foreign buyers. Both the Libyan government and the international community warned that oil sold by the CPB would be regarded as contraband. However, the Libyan government alone could do nothing to stop Jadhran. Prime Minister Ali Zeidan spoke about taking the ports back by force but lacked the means to do so. His efforts to enlist eastern tribal leaders as mediators similarly failed. Libya lost billions in export revenue. Ultimately, it was the international community that ended the standoff in March 2014, when the US navy intercepted a tanker carrying 230,000 barrels of crude from Sidra. The tanker bore a North Korean flag but was allegedly Emirati-owned and Saudi-operated.[31] The U.N. Security Council unanimously passed a resolution banning the sale of Libyan oil outside government channels and authorising outside powers to seize suspected smugglers.[32] In June, Jadhran agreed to reopen the ports on condition that the arrest warrants were set aside, that the LCB agreed to pay back salaries to PFG fighters and that the government began the process of relocating the LNOC headquarters to the east.[33]

The interlinked physical and symbolic contest over oil intensified in the 2014 civil war period and with the deepening of Libya's east-west fissure. The 2014 election spurred a new set of infighting amongst various Libyan factions, each backed by foreign powers. The newly elected House of Representatives (HoR) was relocated to the east, with the parliament based in Tobruk and the government in Bayda. The GNC holdover remained in Tripoli. Both claimed to be Libya's sole legitimate government and asserted authority over

28 Ahram, A. I. (2019). *Break All the Borders: Separatism and the Reshaping of the Middle East*, Oxford University Press, pp. 77-81.

29 Loyd, A. (2013). "Rebel choking Libya's oil exports steps up his bid for power; Libya," *The Times* (London), October 30, http://www.thetimes.co.uk/article/rebel-choking-libyas-oil-exports-steps-up-his-bid-for-power-rl2g53db38z; Crisp, W. (2013). "Tripoli has only one option—it must free us, says Jadhran," Petroleum Economist, October 8, http://www.petroleum-economist.com/articles/politics-economics/africa/2013/tripoli-has-only-one-option-it-must-free-us-says-jadhran

30 McGregor, A. (2013) "Autonomy Campaign in Cyrenaica Brings Libya's Oil Industry to a Halt," Jamestown Foundation Terrorism Monitor, 9:20, October, https://jamestown.org/program/autonomy-campaign-in-cyrenaica-brings-libyas-oil-industry-to-a-halt/

31 Ahram, *Break All the Borders*, pp. 83-88.

32 Mahmoud, K. (2014) Tarablus tu'talib rasmi al-mujtama' ad-dawli bimusa'adatiha fi tamin am al-bilad [Security council officially requests the international community to intervene to secure national security] *Ash-sharq al-Awsat*, March 22, 2014, http://aawsat.com/home/article/61051; Mahmoud, K. (2014) "Majlis al-Amn yufardh 'aqubat ala muharbi an-naft al-libi [Security Council imposes sanctions on Libyan oil smugglers," *Ash-sharq al-Awsat*, March 21, 2014, http://aawsat.com/home/article/60186

33 International Crisis Group (2015) "The Prize: Fighting for Libya's Energy Wealth," International Crisis Group Report No. 163, December 3, 10-11, https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/prize-fighting-libya-s-energy-wealth (Accessed March 10, 2017);

the national oil company and central bank. Turkey and Qatar continued to support the holdover group, which included many figures associated with the Libyan Muslim Brotherhood groups and figures from the western mercantile city of Misrata. The situation became even more complicated with the rise of General Khalifa Haftar and his alliance with the HoR. Haftar denounced the Tripoli government for harbouring Islamist radicals and fostering lawlessness. Haftar sought to march on Tripoli and establish a strong centralised unitary Libyan state. Haftar's self-styled Libyan National Army (LNA) and allied militias took control over much of eastern Libya, including the largest oil installations. Russia, Saudi Arabia, the UAE and Egypt supported Haftar, mostly to counter Qatar and Turkey. The GNA, meanwhile, remained in power in Tripoli, Misrata and the west.

The US and most European powers, together with the UN, initially recognised the Tobruk-based HoR as Libya's legitimate government, but the LNOC and LCB headquarters remained in Tripoli under Mustapha Sanallah and Sadeq el-Kabir respectively. Both were experienced technocrats and were well-regarded in international circles. The World Bank, the IMF and other international institutions refused to treat with the HoR's nominated replacement. The result was a fissure in both institutions and the creation of parallel institutions in the east and west. The HoR government insisted that its appointees, both based in Benghazi, were the legitimate administrators of Libya's national oil company and central bank. In late 2015 the UN negotiated the installation of the Government of National Accord (GNA) in Tripoli in the hope of reconciling the eastern and western factions. Some of the HoR parliamentarians joined the GNA or stood down. However, Haftar continued to back the HoR, posing a direct challenge to the competency and the legitimacy of the now internationally-recognised government in Tripoli. The UN maintained that the GNA in Tripoli was Libya's official government. Few outside actors would openly break with this consensus. Some, however, came to regard Haftar's 'strongman' style as preferable to the ineptitude of the GNA. The Macron administration in France backed Haftar's efforts to extend control over southern Libya, including oil fields in the Fezzan, and France blocked British and Italian efforts to censure him in the European Union.[34] The Trump administration in the US also signalled favourably to Haftar, despite continuing its formal diplomatic ties with Tripoli.

The eastern government pushed a more forthright claim of title over all of Libya's assets and authority over its key financial institutions. The eastern LNOC branch controlled some of the most important oil fields and terminals and repeatedly tried to sell oil to foreign customers. The eastern LCB set up foreign accounts to accept oil payments. In 2016, the eastern LNOC branch issued a directive on official stationary instructing oil sale payments to be submitted to a separate bank based in Amman through a unique SWIFT code. For the most part, however, international interventions stymied these efforts by insisting that the proceeds of all sales had to be routed to the Tripoli LCB accounts. Small-scale smuggling continued, but larger sales of Libyan oil through the eastern LNOC and eastern LCB were suppressed. The Tripoli LCB, tapping into funds accrued from oil sales, continued to provide liquidity, albeit on a limited scale, to banks operating in the east, and even paid the salaries of the LNA in the hope of holding Libya together. The IMF, the World Bank and the UN backed these efforts in the hope that this would create incentives for political reconciliation by assuring all the parties they would have access to accumulated oil wealth. The LNOC and the LCB working in concert were Libya's golden goose—too valuable for any faction to risk destroying.[35] However, Haftar and the eastern rebels continued to vie to gain legal authority to match their physical control on the ground. Since 2015, the eastern LCB has issued over 35 billion dinars in debt ($25 billion USD) to finance public service operations and support commercial banks in the east. The sources of most of this money are likely to be Russia, the UAE, Saudi Arabia and Egypt, since most foreign countries refuse to treat with the eastern LCB. The eastern LCB has also

34 Valori, G. (2020) "Khalifa Haftar's latest declarations," *Modern Diplomacy*, May 6, 2020, https://moderndiplomacy.eu/2020/05/06/khalifa-haftars-latest-declarations/

35 "Libyan oil chief warns renewed fighting threatens production," *Financial Times*, April 11, 2019 https://www.ft.com/content/17e9ba82-5b94-11e9-9dde-7aed-ca0a081a ;

contracted with a Russian printing company to issue around 9.7 billion dinars worth of banknotes. The Tripoli government, and much of the international community, regards this as illegal and the Russian-manufactured dinars as counterfeit.[36] The Tripoli LCB further refused to honour the eastern LCB's debts. Without assured access to oil revenue, the eastern LCB began to draw down its reserves.[37]

In June 2018, LNA forces seized oil facilities around the Gulf of Sirtre from Jadhran's PFG, which had reconstituted in alliance with the GNA. The LNA immediately announced the transfer of control over the oil facilities to the Benghazi branch of the LNOC. This Benghazi LNOC issued a general memorandum on LNOC letterhead announcing that it was now the headquarters and sole representative of the Libyan national oil company. The letter dutifully cited Libyan law, including the 2013 law relocating the LNOC headquarters to Benghazi and a more recent HoR law confirming the relocation. It also cited UN resolutions calling for sanctions against criminals and others involved in "illicit" exploitation of Libyan crude. The Benghazi LNOC designated itself as "the sole owner of the titles related to all hydrocarbonates … entitled to sell all crude oil, petroleum products and petrochemicals under Libyan Law 10 issued in 1979."[38] Again, the Tripoli government could only resort to legal, not military, means to defend itself. The Tripoli-based LNOC declared force majeure in affected fields, effectively annulling any property claims on the oil. Haftar backed down after a fortnight, but the incident underscored the impotence of the Libyan state in defending its most valuable assets.

The legal contests extended from the upstream domain of wholesale and exports to downstream domestic consumables. The Libyan government had long provided Libyan citizens with deeply subsidised refined products. Retail petroleum consumption across Libya has been wracked by theft, fraud, extortion and smuggling. Many of the hundreds of filling stations that had been licensed by the LNOC to sell fuel since 2011 served as fronts to acquire subsidised gasoline for smuggling to neighbouring countries where the fuel retail prices were higher. Armed gangs seized control over LNOC-owned retail centres in the south and west. In 2019, the eastern HoR government announced the appointment of an alternative board of directors of the Brega Marketing Company, the LNOC's downstream affiliate. The alternative board accused the Tripoli LNOC of failing to provide adequate supplies of jet fuel and kerosene to residents of the east and insisted on its right to take over consumer distribution itself. The creation of a separate retail division answerable to the eastern government provided an additional legal and political foothold from which to dispose of Libyan assets with the imprimatur of legality.[39] This would not only garner greater revenue than outright smuggling but also help further substantiate the eastern government as the real Libyan state.

Haftar's offensive in late 2019 and early 2020 marked a dramatic turn in the competition for oil—a switch from efforts to own oil to much simpler extortion and denial. Many expected that some GNA-aligned militias would defect as Haftar inevitably moved on Tripoli. Haftar seemed confident of support not only from his traditional backers, Russia and the UAE, but of new-found support from France and the US. In fact, the Haftar offensive met unexpectedly stiff resistance. Turkey dispatched an expeditionary force to help bolster Tripoli's defences and GNA-aligned forces even managed a counterattack. With momentum stalled, Haftar switched strategy from trying to sell off Libyan oil to one of cutting off the flow, in effect extorting the

36 Wintour, P. (2016) "Battle of the banknotes as rival currencies are set to be issued in Libya," *Guardian*, May 20, https://www.theguardian.com/world/2016/may/20/battle-of-the-banknotes-rival-currencies-libya

37 On the banking sector, see Harchaoui, J. (2018) "Libya's Monetary Crisis," Brookings Institution Lawfare, January 10, https://www.lawfareblog.com/libyas-monetary-crisis.

38 UN Security Council Document S/2018/812, Panel of Experts on Libya, September 5, 2018, p. 37, Annex 41, https://www.securitycouncilreport.org/un-documents/document/s2018812.php

39 "Five Western countries, Turkey and UAE back Libyan state oil firm," Reuters, September 22, 2019, https://www.reuters.com/article/us-libya-oil/five-western-countries-turkey-and-uae-back-libyan-state-oil-firm-idUSKBN1W70VP; Sertin, C. (2019) "Partitioning oil sector will put Libya's integrity "at grave risk": NOC chairman," *Oil & Gas*, September 22, https://www.oilandgasmiddleeast.com/drilling-production/35097-partitioning-oil-sector-will-put-libyas-integrity-at-grave-risk-noc-chairman

government. Haftar's forces closed major pipelines and shut down export terminals in an attempt to starve the Tripoli government of funds. The results, coming amidst a dramatic downturn in global oil prices and the global coronavirus pandemic, were economically catastrophic. Even the US, which had tilted toward Haftar, demanded that the LNOC remain intact and urged Haftar to cease attacks on oil facilities.[40] The golden goose, it seemed, had become more vulnerable.

Conclusion: Rebel Oil in Libya and Beyond

Most of the discussion about oil in MENA's civil wars focuses on its physical possession. The handling of oil by rebels is likened to looting, pillaging, ransom and other kinds of violent expropriation. However, these extraordinary modes of conflict are only a part of larger financial flows in wartime.[41] Rebel governance, just like that of states, requires more regular, even banal, fiscal modes—tax collection, revenue outlays, issuing and collecting debts. These cannot rely simply on seizure and coercion; they require assertions of authority and legality. Rebel NOCs serve as an interface converting intermittent and often meagre smuggling revenues into something more substantial, persistent and legal.

Rebels across MENA have moved from physical seizure to legal claims to oil, given its economic and political valence, but the manner of this assertion has varied. Instead of trying to take over the mantle of the NOCs and state ownership, as in Libya, some rebel forces have claimed the authority to break up NOC functions, effectively privatising what was once sacrosanct state ownership. The autonomous Kurdistan Regional Government (KRG) in Iraq has sparred for decades with the central government over the right to sell oil from the northern fields. The KRG repeatedly tried to solicit foreign investors in the northern fields without consulting the Iraqi National Oil Company (INOC) or the Iraqi central bank. This led to a series of constitutional, political and even military crises. In 2014, in the midst of the IS onslaught in Iraq and Syria, KRG forces unilaterally seized the oil-rich city of Kirkuk, which Kurds had long claimed as their historical capital. The KRG renewed its push for secession, signalling that it would offer favourable terms on oil sales in return for diplomatic support. As in Libya, however, the international community rebuffed the KRG's attempt to sell oil independently. Iraqi security forces, with support from Iran and Turkey, retook Kirkuk and its oil fields in autumn 2017. However, the KRG's efforts differed from those of the eastern government in some very important ways. It sought to attract international investors by offering them more advantageous terms, not just on price but also ownership. In contrast to the INOC's production-sharing agreements, the KRG offered foreign investors outright ownership stakes in the fields—a move which federal officials in Baghdad decried as illegal. Moreover, the KRG did not set up its own national oil company to parallel or challenge the INOC. Instead, oil sales were handled directly within the KRG ministry of finance and the proceeds were funnelled into an opaque set of accounts. This kind of 'insider' privatisation allowed senior Kurdish political figures to access oil revenue without working through state channels.[42]

Yemen, a much more meagre oil producer, provides another example of rebels using privatisation to undermine the NOC monopoly over ownership. Importing and distributing subsidised consumables have long been among the key functions of the state-owned Yemen Petroleum Company (YPC). In June 2015, the Houthi-dominated government in the besieged northern areas of Yemen abolished the YPC's import monopoly and began auctioning off import licenses for refined consumer products. As with the KRG, the effect was a kind of insider privatisation of core NOC functions. The licensees chosen were closely tied to the Houthi leadership. Iran supplied these

40 "The NOC and its subsidiaries must remain apolitical, US Embassy says," *Libya Observer*, May 7, 2020, https://www.libyaobserver.ly/inbrief/noc-and-its-subsidiaries-must-remain-apolitical-us-embassy-says

41 Wennmann, A. (2005). "Resourcing the recurrence of intra-state conflict: Parallel economies and their implications for peacebuilding." *Security Dialogue* 36(4): 479-494.

42 Voller, Y. (2013). Kurdish oil politics in Iraq: Contested sovereignty and unilateralism. *Middle East Policy*, *20*(1), 68-82; Tinti, A. (2019). Contested geographies of Kurdistan. Oil and Kurdish self-determination in Iraq, Ph.D. Diss., Sant'Anna School of Advanced Studies, Pisa.

Houthi-linked licensees with refined products, skirting the Saudi-led blockade of the north. The licensees could then divert Iranian-imported fuel back into the black market.[43]

How will rebel NOCs and their adjacent legal infrastructure affect MENA's postwar economic governance? Incumbent states and their backers in the international community treat rebel ownership claims as thin contrivances, dressed up fraud and theft of state property. Accordingly, whatever rebels do with oil is illegitimate, inadmissible and ultimately criminal. This does not mean, however, that their impact will be ephemeral. Actors that states deem criminal one day are often inducted as partners and collaborators the next. States make criminals, but criminals also make states.[44] Conflict resolution initiatives across MENA have struggled to find negotiated solutions that grant one-time belligerents access to political power and material resources. As ever, the oil sector remains hotly contested, with rebels continuing to hold significant fields, pipelines, export terminals, refineries and other physical installations. Incumbent states in Iraq, Libya and Yemen are unlikely to roll back these gains without massive international intervention. This makes the rebels' demands for legal accommodation all the more important. Even in Syria, where state military supremacy appears nearest at hand, the Assad regime has struggled to regain the oil fields in the PYD-held northeast. It has also offered ownership stakes to Russian and Iranian forces that have been instrumental in reconquering and defending oil infrastructure.[45] Wars often serve as critical junctures and catalysts for innovations in modes of production, ownership and redistribution. MENA's decade of war, then, is not just an occasion for political change but also for economic restructuring.[46] Illicit wartime arrangements may well prefigure the legal and political innovations that are crucial for future peace.

The international community, which is interested in promoting stability and peace in the region, has more leverage over belligerents' economic choices than directly over the course of fighting. Decisions about whether to recognise ownership can determine the ease or difficulty with which belligerent actors access the global financial system and how they convert war booty into normal licit financial tools. These incentives can have significant impacts on the way belligerents behave in war and peace. Now is the time for the international community to consider the shape of post-conflict political economies in MENA.[47] None of the countries affected by the wars of the 2010s—Syria, Iraq, Libya or Yemen—were paragons of economic dynamism or inclusion. Indeed, poor economic performance, in terms of both growth and equity, were among the underlying causes of conflict in the first place. NOCs are deeply implicated in this record of underachievement. Shifting the terms of ownership and use of oil and other natural resources could provide a basis for economic reform that might make peace more sustainable and stable.

43 Letter dated 26 January 2018 from the Panel of Experts on Yemen mandated by Security Council resolution 2342 (2017) addressed to the President of the Security Council, Section V.A, https://reliefweb.int/sites/reliefweb.int/files/resources/N1800513.pdf ; Letter dated 25 January 2019 from the Panel of Experts on Yemen addressed to the President of the Security Council, Section V.5, https://digitallibrary.un.org/record/1664359

44 Koivu, K. L. (2018). "Illicit Partners and Political Development: How Organized Crime Made the State." *Studies in Comparative International Development* **53**(1): 47-66; Andreas, P. (2013). *Smuggler nation: how illicit trade made America*, Oxford University Press.

45 "Looming Oil Crisis in Syria Catalyzed by International Sanctions," *Enab Baladi*, July 26, 2019, https://english.enabbaladi.net/archives/2019/07/looming-oil-crisis-in-syria-catalyzed-by-international-sanctions/; Katona, V. (2018) "Russia Is Taking Over Syria's Oil And Gas" *OilPrice*, February 14, https://oilprice.com/Energy/Energy-General/Russia-Is-Taking-Over-Syrias-Oil-And-Gas.html

46 Heydemann, S. (2000). *War, institutions, and social change in the Middle East*, University of California Press; Lynch, M. (2018), *The Politics of Post Conflict Reconstruction*, September, https://pomeps.org/wp-content/uploads/2019/07/POMEPS_Studies_30.pdf

47 Wennmann, A. (2010). *The Political Economy of Peacemaking*, Routledge.