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Political Economy, Mr. Churchill, and Oil

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Abstract

The article recalls Winston Churchill´s advocacy of public ownership of natural resources in Africa in the early 1900s. Following a brief discussion of different countries´ methods of natural resource management, empirical evidence of the cross-country relationship between economic and political diversification and per capita national income is presented to suggest a new channel through which excessive dependence on poorly managed natural resources, including oil and other minerals, may hamper economic and social progress. Constitutional issues, democracy, and human rights are brought to bear on the story to underline the conceptual distinction between state ownership and national ownership of natural resources.

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μέτρον ἄριστον

(Metron Ariston, Moderation is best)

Ancient Greek poet

1. Economists and Politics

Economists and politicians do not always see eye to eye. A lack of mutual understanding can hamper the effectiveness of economists when they seek to make themselves useful by providing politicians with economic advice, an important function of applied economists. As in other human affairs, the distrust between economist and politician, when present, tends to be, or to become, reciprocal.

A classic case is reported by Robert Tignor (2006) in his biography *W. Arthur Lewis and the Birth of Development Economics*. Lewis served as economic advisor to Kwame Nkrumah, Ghana´s first President, but he resigned after a couple of years of service, frustrated by the President´s tendency to let sound economics play second fiddle to political concerns. Nkrumah understood this, writing to Lewis (Tignor, 2006, 173): "The advice you have given me, sound though it may be, is essentially from the economic point of view, and I have told you, on many occasions, that I cannot always follow this advice as I am a politician and must gamble on the future." For Lewis, the last straw was the President´s insistence on offering Ghana´s hydroelectric resources to foreign firms at prices that Lewis thought were too low, coupled with the President´s penchant for prestige projects with questionable prospects of profitability or social value.

With significant natural resources, Ghana has grown a bit more rapidly than the countries of Sub-Saharan Africa on average since 1960 but less rapidly than oil-rich Nigeria close by. The differences are small, however. Nigeria´s per capita GDP, despite huge oil export earnings over many decades, has grown by 1.1% per year on average since 1960 compared with 0.9% in Ghana, 0.7% in Sub-Saharan Africa as a whole, and 1.9% across the world.[1] Ahead of schedule, Lewis left Ghana in 1958. His writings had a longer-lasting albeit indirect influence on development policy in, for example, Singapore and South Korea, both of which grew by leaps and bounds.[2]

[1] Source: World Bank, *World Development Indicators*.

[2] South Korea has fewer natural resources than North Korea.

There are other cases, no less fascinating, where political leaders proved more prescient than their economic advisers or academic contemporaries. One such leader was Lee Kuan Yew, the founding father of Singapore (1959-1991), a country with little land and no natural resources. In the first volume of his autobiography *The Singapore Story* (1998, 105), First Prime Minister Lee states:

> "I thought then that wealth depended mainly on the possession of territory and natural resources, whether fertile land with abundant rainfall for agriculture or forestry, or valuable minerals, or oil and gas. It was only after I had been in office for some years that I recognized that performance varied substantially between the different races in Singapore, and among different categories within the same race. After trying out a number of ways to reduce inequalities and failing, I was gradually forced to conclude that the decisive factors were the people, their natural abilities, education and training. Knowledge and the possession of technology were vital for the creation of wealth."

It was decades later that economists noticed and began documenting the modest economic growth performance of several countries with abundant natural resources, an effort that was launched by Jeffrey Sachs and his associates (Sachs and Warner, 1995). Overall, the empirical evidence emerging from this research on the relationship between resources and growth seems fairly clear. There are many countries, from Angola to Zambia, that have grown disappointingly slowly for reasons that seemingly have to do with their mismanaged dependence on their natural resources – minerals, oil, forests, fish, you name it – including socially counterproductive rent seeking and neglect of infrastructure and institutions, including democracy, as well as overvalued currencies (Auty, 1993; Collier, 2011). There are also countries whose people have clearly benefited from their natural resources, including Australia, Canada, Norway, and the United States, among other democracies. Much of the empirical evidence compiled to date suggests that the first group dominates the overall cross-country patterns of growth and resource dependence as described in several recent surveys of the literature (Ross, 2011; van der Ploeg, 2011; Frankel, 2014; and Venables, 2016).

But even when that is not the case, i.e., when the aggregate evidence is mixed because some countries in the sample under review have been held back by their mismanaged resource dependence while others have benefited through better management, the fact remains that a number of countries have mismanaged their natural resources by allowing the resource rents to accrue to self-dealing elites rather than to the people at large and by allowing the maldistribution of the rents to retard economic and social progress, including democracy in Russia, for example. In Norway, 80% of the oil rent has accrued to the Norwegian people over the years (Gylfason, 2008) while, in Iceland, 90% of the rent from the fisheries accrues to vessel owners who were initially granted valuable fishing licenses free of charge and then, since 2002, against nominal fees (Thorláksson, 2015). In effect, Iceland chose to model its fisheries management on Russian rather than Norwegian oil management. Iceland's Individual Transferable Quota (ITQ) system is built on an internal contradiction as its rests on an initial allocation of quotas that was arbitrary and inequitable and probably also unlawful.[3] Free transferability of quotas was desirable on efficiency grounds, true, but this presupposed an equitable and lawful initial allocation of quotas. The problem is thus not the quotas themselves or their transferability, but rather their inequitable initial allocation. Moreover, many fishermen have for many years maintained that the quota system has been conducive to other violations, including discarding and illegal landings to a larger extent than the authorities have been willing to acknowledge.

As Collier (2010) describes, the tendency for many nondemocratic natural resource rich countries to make slow or lop-sided progress has more to do with politics than economics. Oil and other mineral wealth tend to impede democracy according to Ross (2001). Thus, if democracy is good for growth, as Acemoglu *et al*. (2014) report, we have right here an important channel through which oil and minerals, if not well managed, may hurt economic growth over time. Several other channels through which excessive natural resource dependence may retard economic development have been documented in recent work: Rent seeking, the Dutch disease, poor governance, political or ethnic conflict, corruption, autocracy, excessive borrowing, and low standards of education.[4] Newcomers to the oil export business such as Ghana and Uganda need to be alert to the dangers that await them as do also established participants from Algeria, Angola, and Azerbaijan to the end of the alphabet.

This article has two main aims. One is to recall and ponder Winston Churchill´s remarkably farsighted analysis of Uganda and its natural resources over a hundred

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[3] See *The Icelandic Federalist Papers*, https://escholarship.org/uc/igs_ifp, No. 15, "Natural Resources as Human Rights."
[4] For references documenting each of these different channels, see Gylfason and Zoega (2017).

years ago and to discuss the dependence on vs. diversification away from oil and other natural resources in the context of macroeconomic performance (Section 2). The other aim is discuss the management and macroeconomic impact of oil and other natural resources in terms of constitutions, human rights, and democracy, aspects that are grounded in law and political economy often overlooked by economists and governments preoccupied by economics (Section 3). The two topics overlap.

2. Churchill in Africa

Long before Lee Kuan Yew came to realize that human capital is the most precious asset that any country can possess, Winston Churchill visited Uganda. The year was 1908. Churchill described his impressions in his book *My African Journ*ey where he writes (75-76):

> "As one watches the surging waters of the Ripon Falls and endeavours to compute the mighty energies now running to waste, but all with the reach of modern science, the problem of Uganda rises in a new form on the mind. All this waterpower belongs to the State. Ought it ever to be surrendered to private persons? How long, on the other hand, is a Government, if not prepared to act itself, entitled to bar the way to others? This question is raised in a multitude of diverse forms in almost all the great dependencies of the Crown. But in Uganda the arguments for the State ownership and employment of the natural resources of the country seem to present themselves in their strongest and most formidable array. Uganda is a native State. It must not be compared with any of those colonies where there is a white population already established, nor again with those inhabited by tribes of nomadic barbarians.
> … there cannot be much opening for the push and drive of ordinary commercial enterprise. The hustling business man – admirably suited to the rough-and-tumble of competitive production in Europe or America – becomes an incongruous and even a dangerous figure when introduced into the smooth and leisurely development of a native State. The Baganda will not be benefited either morally or materially by contact with modern money-making or modern money-makers. When a man is working only for the profits of his company and is judged by the financial results alone, he does not often under the sun of Central Africa acquire the best method of dealing with natives; and all sorts of difficulties and troubles will follow any sudden incursion of business enterprise into the forests and gardens of Uganda. And even if

the country is more rapidly developed by these agencies, the profits will not go to the Government and people of Uganda, to be used in fostering new industries, but to diverse persons across the sea, who have no concern, other than purely commercial, in its fortunes. This is not to advocate the arbitrary exclusion of private capital and enterprise from Uganda. Carefully directed and narrowly controlled opportunities for their activities will no doubt occur. But the natural resources of the country should, as far as possible, be developed by the Government itself, even if that may involve the assumption of many new functions."

Churchill's plea for state ownership of natural resources and his warning that, without it, to repeat, "profits will not go to the Government and people of Uganda, to be used in fostering new industries, but to diverse persons across the sea, who have no concern, other than purely commercial, in its fortunes" is as pertinent today in Uganda and around the world as it was more than a century ago. Churchill´s words refer not exclusively to colonial rulers and their subjects. It does not take a foreign ruler to stash away natural resource rents in distant havens. The Norwegian government understood this fully from the outset. Oil within Norway´s jurisdiction was defined by law as the property of the state even before the first drop of Norwegian oil saw the light of day. No significant rent seeking took place. Oil barons are few and far between in Norway; the term hardly exists in the country´s political vocabulary. This is in sharp contrast to Russia next door, where the reference to Russian oligarchs is common; even in English, the term came up 490,000 times in a recent Google search. This is in sharp contrast also to Iceland where "sea barons" and "quota kings" have been ubiquitous in political discourse since the mid-1980s.[5]

2.1 United States, Norway, Russia, and others

In the United States, private ownership of oil fields is the rule. Ownership was long ago conferred on private firms by law under what was then the world´s strongest democracy, and could have been challenged by the voters. The key here is that the voters were not helpless. They could have brought America´s oil wealth under public

[5] The Icelandic words for "sea baron" ("sægreifi") and "quota king" ("kvótakóngur") came up 1,920 + 456 = 2,376 times in a recent Google search, or more than twice as often as "Russian oligarch" when the search results are adjusted for the 2016 populations of the two countries (144.3 million vs. 0.334 million).

ownership but they chose not to. When new oil fields were discovered in public lands in Alaska in the 1980s, the Reagan administration auctioned them off. Even Russia sold ocean fishing permits in the 1990s. Private ownership of natural resources under democracy is a formula that has worked well for the United States. Mr. Churchill could hardly have objected.

State ownership of natural resources protected by law as in Norway has also worked well because Norway had a mature democracy firmly in place long before the oil discoveries were made. This is how the Norwegian people, through their government, have managed to keep 80% of the oil rent, most of it in a pension fund that is, at more than $1 trillion, or $800,000 for every family of four, by now the world´s largest sovereign wealth fund. The law was sufficient and in no need of special protection through an immediate amendment of the Norwegian constitution which has remained essentially unchanged since 1814.[6] Put differently, Norway´s political culture has proved mature enough that no detailed extra protection in the constitution against private expropriation of the oil wealth, domestic or foreign, has been considered necessary. Norway managed to avoid the dangers that Mr. Churchill feared in Uganda.

Other countries with less mature political cultures are not as fortunate. The Russian constitution states (Article 9): "The land and other natural resources may be in private, state, municipal and other forms of ownership." The formulation is vague enough – especially the part that allows "other forms of ownership" – that the oligarchs have little to worry about at home. The Nigerian constitution is similarly elusive on this point, apparently stating that good intentions suffice: "[t]he State shall direct its policy towards ensuring ... that the material resources of the nation are harnessed and distributed as best as possible to serve the common good." (Article 16). Several other constitutions (Angola, Azerbaijan, Chile, China, Congo, Ghana, Iraq, Kazakhstan, Kenya, and Kuwait, to name a few countries from A to K) likewise stipulate that natural resources belong to the people or the state, some more clearly than others. For example, the Kenyan constitution states (Article 69): "The State shall (a) ensure sustainable

[6] Norway revised its constitution in 2015, mainly to add new provisions on human rights. Earlier, in 1992, a new provision on environmental protection had been added, including: "Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well." This and other quotations from English translations of constitutions in the text are taken from The Comparative Constitutions Project, see https://www.constituteproject.org/.

exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits; … (h) utilize the environment and natural resources for the benefit of the people of Kenya." The Ugandan constitution states (Article 244): "All minerals and petroleum in Uganda are held by the Government on behalf of the people of Uganda."

The pattern is quite clear across countries: Constitution makers, if they care to mention natural resources at all in their texts as they increasingly do, generally view them as common property resources in one way or another, belonging to the state on behalf of the people or to the people directly.

2.2 Angola: Then nothing is wrong

Does it matter which it is? – The state or the people? Yes, it does. The Angolan constitution states (Article 16): "The solid, liquid and gaseous natural resources existing in the soil and subsoil, in territorial waters, in the exclusive economic zone and in the continental shelf under the jurisdiction of Angola shall be the property of the state, which shall determine the conditions for concessions, surveys and exploitation, under the terms of the Constitution, the law and international law." This provision has provided no protection to the people as can be seen, for instance, from the fact that Africa´s richest woman, Isabel dos Santos, was recently installed as the CEO of the Sonangol Group, Angola´s state oil company. She happens to be the daughter of José Eduardo dos Santos, Angola´s President 1979-2017. Her net worth is estimated at $3.5 billion.[7] Having natural resources belong by law to the people rather than to the state is a different matter as we shall see in Section 3.

But first this: Why bother? There are two main concerns.

First, consider Angola which exported $600 billion worth of oil during 2002-2015, equivalent to $80,000 for each family of four in the country, and yet continues to have the world´s highest child mortality rate. Every sixth child dies before reaching the age of five. Angola is a kleptocracy. Extreme poverty and a lack of democracy render ordinary people powerless to protect themselves. It is difficult not to think of Abraham´s Lincoln´s statement about slavery: If this isn´t wrong, then nothing is wrong.

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[7] It was her father who installed her as CEO of the Sonangol Group shortly before stepping down. Her father´s successor as president, João Lourenço, had her removed from her CEO post a short while after taking office in 2017.

Second, there is, as said in the introduction, evidence that, as a rule with important exceptions, economic, political, and social development tends to be held back by excessive dependence on natural resources when they are not well managed and when the rents they generate are not fairly distributed among the people, the rightful owner by law in all but a few countries such as the United States.

One way to view the cross-country empirical evidence that has been accumulated since the mid-1990s is to shift the emphasis from natural resources *per se* to economic and political diversification, a broader concern, by studying the covariation of different measures of diversification and growth. Natural resource dependence and diversification are related because economic diversification commonly aims to sway economic activity away from excessive dependence on narrowly based natural resource industries and thus to stay clear of the resource curse, a term coined by Auty (1993), as well as to spread systemic economic risk and thus reduce the vulnerability associated with keeping too many eggs in one basket. The latter aim is broader than the former.

2.3 Cross-country evidence

The cross-country relationship between different measures of diversification and economic growth is fairly strong (Gylfason, 2017). Specifically, as Figure 1 shows, the purchasing power of per capita GNI at present, viewed as an indicator of past economic growth given that a country´s income today stems from its economic growth in the past, varies directly with three different measures of economic diversification:

(a) The Theil index of export diversification developed recently by the IMF; the Theil index is a common measure of inequality, segregation, and other forms of diversity, designed to reflect diversity within as well as among sectors and groups.[8]

(b) The IMF´s Product Quality Index that aims to capture the average quality demanded in an exporter´s current destination markets (Henn *et al*., 2013, and IMF, 2014).

[8] The more diversified a country´s exports, the lower the Theil index. Hence the inversion of the index shown in Figure 1A. Like other trade statistics such as export ratios, the Theil index may reflect country size as well as export diversification because large, i.e., populous, countries are more likely than smaller ones to have diversified exports.

(c) The Economic Complexity Index produced by Hidalgo and Hausmann (2009) which ranks countries by the diversity and complexity of their export structure, ranging from raw materials and simple farm products to refined chemicals and machinery.

Figure 1A shows the cross-country relationship between per capita GNI at PPP and the inverted Theil index of export diversification, defined as *8 minus Theil* to have diversification rise from left to right in the figure. We see here a significantly positive cross-country correlation between the average value of the inverted Theil index and the natural log of per capita GNI in a sample of the 164 countries for which data are available.[9] Per capita incomes and diversification go hand in hand from southwest to northeast. Taken at face value, Figure 1A suggests that diversification is good for growth. The slope of the regression line, 0.57, indicates that an increase in diversification by one point, spanning a fifth of the scale observed across countries from 1 to 6, would in the average country go along with an increase in per capita GNI by 57%.

Figure 1B shows a significant correlation between the average value of the product quality index during 1962-2010 and the latest available level of per capita GNI at PPP. Per capita incomes and product quality go together from southwest to northeast in the figure. Specifically, when product quality increases by 0.1, an increase that spans one sixth of the range of the variable from 0.5 to 1.1, per capita GNI rises by 53%, a similar result as the one deduced from Figure 1A. The causation, if that is what we see, must run from product quality to growth because per capita GNI in 2014 cannot have had a retroactive influence on product quality. The same applies to Figures 1A and 1C.

Figure 1C shows the cross-country relationship between per capita GNI and the Economic Complexity Index. Once more, we see a significantly positive relationship suggesting that a 20-point increase in complexity from one country to another, spanning a fifth of the scale from 0 to 100, goes along with an increase in per capita GNI by 58%, a similar result as before.

All in all, the cross-sectional correlations presented in Figure 1 suggest a clear cross-country connection between economic growth and economic diversification, product quality, and complexity. Economic diversification may thus be viewed as an independent catalyst of economic growth. Here we have yet another channel through

[9] Six Gulf Cooperation Council countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates), characterized by high per capita incomes and low diversification, are not included in the sample. Including them does not change much, however.

which excessive dependence on natural resources may retard growth – by denying resource dependent countries the growth benefits of diversified economic activity.

There is more. If economic diversification varies directly with national incomes across countries, suggesting that diversification boosts economic performance by spreading risk and reducing the vulnerability associated with a narrow economic base, then we may ask whether the same argument ought to be applied to political diversification, i.e., increased democracy that aims to spread risk and reduce the vulnerability associated with excessive reliance on a narrow political base. Hence the concept of double diversification, economic as well as political in tandem (Gylfason, 2017; Gylfason and Wijkman, 2016).

Figure 2 shows how per capita GNI defined as before varies directly with three different measures of democracy:

(a) The Political Rights Index (PRI) compiled by Freedom House since 1972, now covering 205 countries, with numerical ratings from 1 to 7 where 1 is free and 7 is not free.

(b) The Civil Liberties Index (CLI) also compiled by Freedom House since 1972, again with numerical ratings from 1 to 7 where 1 is free and 7 is not free.

(c) The Polity IV Project's Polity2 index that ranges from fully institutionalized autocracies through mixed authority regimes to fully institutionalized democracies on a 20-point scale ranging from -10 (hereditary monarchy) to 10 (consolidated democracy).[10]

Figures 2A and 2B show a significantly positive cross-country correlation between the average values of the inverted Political Rights Index (*8 minus PRI*, Fig. 2A) and the inverted Civil Liberties Index (*8 minus CLI*, Fig. 2B) on the one hand and the natural log of current per capita GNI on the other in the 171 countries for which data are available, excluding six GCC countries as before.[11] In Figure 2A, an increase in the inverted PRI by one point, covering nearly one sixth of the range from 1 to 7, goes along with an increase in per capita GNI by 33%. Likewise, in Figure 2B, an increase in the inverted CLI by one point from one country to another goes along with an increase in per capita GNI by 30%, a similar result as before. In Figure 2C, we also see a significantly positive cross-country correlation between the average values of the Polity2 index and per

[10] See Marshall and Jaggers (2005).
[11] The indices are inverted to make freedom advance from left to right in the figures.

capita GNI in the 147 countries for which data are available, again not including five GCC countries. One possible interpretation of Figure 2C is that political diversification encourages growth and that the estimated regression coefficient 0.11 means that increased diversification by four points, spanning a fifth of the scale from -10 to 10, will in the average country go along with an increase in per capita GNI by 44%. This is a slightly stronger effect – i.e., if it is an effect rather than a mere correlation – than before, and is akin to the result on economic diversification and growth shown in Figure 1. As in Figure 1, endogeneity bias is not an issue here because current per capita GNI cannot possibly affect political diversification retroactively.

In sum, what we have seen is that, across a large sample of countries that covers most of the world, economic and political diversification both go hand in hand with the level of per capita GNI. This evidence suggests a new perspective on the inverse cross-country (as well as within-country, think Venezuela) association between heavy reliance on natural resources and long-run (and sometimes also short-run) macroeconomic performance reported by many writers.[12] Apart from rent seeking and the rest, the difficulties many natural resource rich countries have had may also have been caused in part by insufficient economic and political diversification that denied the countries in question the benefits of diversity and variety. Even so, as Radetzki (2011) emphasizes correctly, the benefits of economic diversification need to be weighed against the benefits of specialization in accordance with the principle of comparative advantage. Elsewhere, the various economic and political diversification indices have been shown to be closely correlated (Gylfason, 2017).

3. Natural Resources and Human Rights

To be efficient and fair, the utilization of oil and other natural resources requires appropriate compensation to the rightful owners, i.e., the people or the state on their behalf.[13] By international law, the property rights to natural resources belong to the people. Article 1 of the International Covenant on Civil and Political Rights (ICCPR) states that "All people may, for their own ends, freely dispose of their natural wealth

[12] See, for example, references listed in Gylfason and Zoega (2017).
[13] This section draws on joint work with Jean-Pascal Nguessa Nganou, specifically the long 2014 working paper version of the abridged 2016 version of Gylfason and Nguessa Nganou (2014, 2016).

and resources." The ICCPR was adopted in 1966 to fortify the United Nations Human Rights Declaration from 1948. Its purpose is to rule on effective remedies for victims of human rights violations. The ICCPR has 165 signatories. The non-signatories are China, Cuba, Malaysia, Pakistan, Saudi-Arabia, Singapore, and Vatican City in addition to some other small countries.

A people's right to their natural resources is proclaimed in primary documents of international law, and, increasingly, enshrined in many national constitutions. Violations of this universal principle of equality and human rights bring legal and constitutional issues to bear on the management of natural resources. Most constitutions declare that all citizens are equal before the law, ruling out discrimination among individuals on any basis. This must naturally be understood to include a prohibition against government decisions granting unequal or discriminatory access to common property resources (Wenar, 2008).

3.1 The state or the people?

There is, as said before, an important distinction to be made between state ownership and national ownership, a distinction implicit in Churchill´s words cited in Section 2. Such a distinction is made explicit in the constitutional bill awaiting ratification by the Icelandic parliament (Gylfason, 2013).[14] The bill was approved by 67% of the voters in a national referendum called by the parliament in 2012. The provision declaring natural resources not in private ownership to be the perpetual property of the nation was approved by 83% of the voters.

The difference between state ownership and national ownership is defined as follows. State ownership (e.g., public office buildings) means that the state can sell or pledge such assets at will. National ownership (e.g., cultural assets like the Taj Mahal and the pyramids or natural assets like fish and energy) is another matter. National ownership means that the state cannot sell or pledge such assets because they are considered invaluable and irreplaceable. This means that losing them would constitute a violation against, for example, the rights of the current generation's descendants who might later realize that their parents' generation had plundered the nation's common heritage. The current generation inherited the nation's natural resources from earlier

[14] See *The Icelandic Federalist Papers*, https://escholarship.org/uc/igs_ifp.

generations, and must preserve them and their earning potential for future generations in the spirit of sustainable development.[15] The argument applies especially to renewable resources subject to the somewhat paradoxical qualification that renewable resources around the globe sometimes seem to face a greater threat of depletion than do nonrenewable resources, and likewise to cultural assets of historical value. The current generation does not have the right to squander common property natural resources any more than it has the right to solve its current fiscal problems by selling precious cultural assets or by ruining the natural environment.

The extent to which the conceptual distinction between state ownership and national ownership of natural resources described above will matter in practice, i.e., for policy making, remains to be discovered. This is a worthwhile subject for empirical research on the relationship between the quality (i.e., efficiency and fairness) of natural resource management and the legal and constitutional framework governing the resource management.[16] Also, there is reason to expect more litigation where ordinary citizens or victims of alleged discrimination test their rights to a fair share in the rents from their countries´ natural resources and their freedom from discrimination before national courts and international bodies. The definition of natural resources as common property resources and the emphasis on individual rights to a fair share in the rents from those resources as human rights in international covenants and national constitutions raise the stakes because of the supreme status of human rights in international law.

The parallel between natural and cultural assets is one source of the link between natural resources and human rights. Another source, in some cases, is unequal access to the revenues and rents from natural resources. In 2007, this led the United Nations Human Rights Committee to issue a binding opinion declaring the Icelandic system of fisheries management (by which select vessel owners are granted privileged access to common-property fishing grounds) to be discriminatory and thereby unconstitutional. The committee instructed the Icelandic government to rectify the fisheries policy

[15] An increasing number, currently 43, of national constitutions pronounce the principle of sustainable development. See https://www.constituteproject.org/.
[16] Andersen and Aslaksen (2008) consider a different constitutional angle on natural resource management, reporting that, among democracies, natural resources tend to be better managed by powerful parliaments than by powerful presidents and better managed also under majoritarian (i.e., winner-take-all) electoral systems than under proportional systems.

regime by removing the discriminatory element from the system as well as by paying damages to the two fishermen plaintiffs. This 2007 opinion of the UNCHR has far-ranging implications for natural resource management around the world. Expropriation of common property natural resource rents, whether openly or under a veil of secrecy, is equivalent to selling other people's assets.

Wenar (2008) makes essentially the same point about oil and other mineral resources, except in the United States, Canada, and Australia, where rights to oil resources were legally and democratically transferred to private companies long ago. Natural resources, as a rule, are common property resources. This means that, by law, the resource rents ought to accrue in large part to the government as a representative of the people if not to the people directly. Hence, no taxation is really needed except as a formality, although the word 'tax' would be inappropriate; 'fee' is a more appropriate word, as fees are typically levied in exchange for providing specific services – such as the permission to utilize a common property resource. Accordingly, resource taxes should rather be referred to as fees or resource depletion charges (Gylfason and Weitzman, 2003). In any event, it is important to use the proceeds from resource fees either to finance socially productive expenditures or to reduce other less efficient sources of public revenue to keep the overall tax burden manageable. Good fiscal governance requires careful attention to allocative as well as technical efficiency on both sides of the fiscal equation, i.e., public expenditures as well as the revenue mobilization needed to finance those expenditures (see Bergstrom, 1982; Blinder, 1987, Ch. 5; Matthíasson, 2001; and Mankiw, 2009).

Some writers have claimed that there can be no such thing as national ownership because a nation is not a legal entity. This is incorrect. The laws of many countries contain provisions declaring national parks and other national treasures to be the property of the nation. For example, this is true of Iceland's most precious national park at Thingvellir, the site of the ancient parliament (est. 930), by law from 1928. This law provided a clear legal precedent for the natural resource provision in the constitutional bill approved by 67% of the voters in 2012. The provision states: "Iceland's natural resources which are not in private ownership are the common and perpetual property of the nation."

Faroese politicians recently introduced an interesting variation into a constitution bill that has been under discussion in the Faroese Parliament since 2010, and is scheduled for a national referendum at the end of the process. In the provision on natural resources, they replaced the words “property of the nation” by “property of the land” which, in Faroese, means something akin to property of the state (or rather central or local government authorities) but has no meaning in literal English translation and offers, therefore, no legal precedent except locally. Which formulation will prevail in the final version of the bill remains to be seen. The experience from Iceland where opponents of national ownership of natural resources have tried to insert concessions to vessel owners into the text and to sow confusion by replacing clear text by ambiguous language suggests that similar forces may be at work in the Faroes where fisheries are even more important to the national economy than in Iceland.[17]

3.2 Distributive options

There are three basic ways of efficiently distributing common property resource rents to a nation’s citizens. A similar issue arises in the context of privatization of state property and how to maximize the revenues of the rightful owners. One way forward is through fees or royalties that the fiscal authorities can use to finance public spending or reduce taxes – or stow away as in Norway. The challenge of finding the right fee is comparable to that of pricing electricity or other utilities; it must be done by trial and error. A second way forward is through auction, where potential users of the resource bid for the right of use on a level playing field, thus maximizing the revenue that will accrue to the owners. A third method is to issue vouchers, or transfer cash or checks to every eligible citizen as has been done in Alaska for some time. Under ideal conditions, the efficiency properties of these three methods are analytically equivalent as long as the agreed goal is to maximize the revenue of the owner. Failure to use one of these methods or a combination of them is common, and is tantamount to a subsidy to those who are granted privileged access to the resources, inviting inefficiency and favoritism.

Some observers mistrust the first two methods (fees and auctions) on the grounds that they risk granting too much revenue and too much power to the government. These observers advocate instead that oil revenues be transferred as directly as possible to the private sector, safely bypassing the government’s coffers (Sala-i-Martin and Subramanian, 2013). But the private sector is not infallible, either. Rather than

[17] In 2016, for the first time, foreign tourism generated more foreign exchange earnings in Iceland than the fisheries and the aluminum sector combined.

privatizing natural resources, therefore, it is possible to outsource – that is, depoliticize – their management by granting independent yet democratically accountable experts a say in their management (Gylfason and Weitzman, 2003). This is how the judicial system and, more recently, central banking have been outsourced in many countries to safeguard the integrity of justice and of the currency by keeping politicians at arms' length. Foreign central bank governors and monetary policy committee members are increasing in number in several countries, from Botswana and Mauritius to the United Kingdom.

However, if the privatization route is taken, it makes a difference to whom the oil rent is transferred. If the rent is divided evenly among the adult population as in Alaska, the allocation can be deemed fair if not necessarily efficient. If, on the other hand, the resource rent is granted to select interested parties, the allocation fails both the fairness test and the efficiency test and produces an economic and political oligarchy with intensified regulatory and rent capture and sometimes even state capture as a result. This was the case in Iceland where fishing quotas were handed virtually free of charge to vessel owners. Many countries succumb to such a state of affairs because the stakes can be huge and the will to resist is weak and dispersed.

The legal aspect of natural resources as human rights has an important implication. The accrual of natural resource rents to the government presupposes representative democracy and hence, as a matter of international law, the legitimacy of the government's right to dispose of the resource rents on behalf of the people (Wenar, 2008). This is what Winston Churchill must have had in mind when he referred to "the Government and people of Uganda" rather than just the government of Uganda in his text cited in Section 2. Common property resources, by law, are not empty words.

Absent full-fledged democracy, the expropriation of common property resources and the revenues they generate by political or business elites is against international law (Wenar, 2016). These elites lack legitimacy that is firmly grounded in democratic institutions and practices. Domestic laws, including constitutions, need to reflect this fact to reinforce the legal recourse of those citizens who might want to challenge in court allegedly unlawful expropriation of natural resource rents, because every citizen has the same right to the benefits that flow from common property resources.

The rapid development of legal reasoning and practice concerning human rights brings these issues ever closer to the fore. A recent example is the 2012 conviction of former Liberian President Charles Taylor in the International Court of Justice in the Haag for aiding and abetting war crimes in Sierra Leone, the first war crimes conviction of a former head of state by an international court since the Nuremberg trials after WWII. Taylor was, *inter alia*, found guilty of using Sierra Leone's diamond deposits to help fuel its civil war while enriching himself. Another recent but different example is the 2016 resolution of the United Nations General Assembly that defines access to the Internet as a human right.[18] This also matters because human rights are inalienable in a legal sense, superseding all other considerations before courts of law.

Frédéric Bastiat (1850) would hardly have been surprised:

> "Sometimes the law defends plunder and participates in it. Thus, the beneficiaries are spared the shame and danger that their acts would otherwise involve … But how is this legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them and gives it to the other persons to whom it doesn't belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime. Then abolish that law without delay – No legal plunder; this is the principle of justice, peace, order, stability, harmony and logic... The war against illegal plunder has been fought since the beginning of the world. Long before the Revolution of February 1848 – long before the appearance even of socialism itself – France had provided police, judges, gendarmes, prisons, dungeons, and scaffolds for the purpose of fighting illegal plunder. The law itself conducts this war, and it is my wish and opinion that the law should always maintain this attitude toward plunder."

3.3 Democracy under stress

The key to the human rights perspective on natural resources and their management is democracy. Once more, the crucial difference in this context between the United States and, say, Angola or Equatorial Guinea, is that, under their time-honored democratic form of government, the citizens of the United States are not defenseless against the

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[18] See United Nations, General Assembly, "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development," 27 June 2016, https://www.article19.org/data/files/Internet_Statement_Adopted.pdf, accessed 9 January 2018. See also how the *Independent* newspaper reported the resolution 5 July 2016: http://www.independent.co.uk/life-style/gadgets-and-tech/un-declares-online-freedom-to-be-a-human-right-that-must-be-protected-a7120186.html, accessed 9 January 2018.

government's natural resource management practices, and never were. In Angola and Equatorial Guinea and several other countries, on the other hand, the lack of democracy and disrespect for human rights leave ordinary citizens virtually defenseless against the usurpation by governing elites of natural resource wealth and the rents it generates. This is why, as Wenar (2008, 2013, 2016) has emphasized, there are legal grounds for challenging such discriminatory practices before international courts or other fora such as, for example, the United Nations Committee on Human Rights.[19]

This is precisely what the two afore-mentioned Icelandic fishermen managed to do with competent legal aid in 2007.[20] The Icelandic government responded by promising a new constitution that would remove the discriminatory element from the fisheries management system in force since the mid-1980s. The UNCHR then let the Icelandic government off the hook on the grounds of partial fulfillment of the committee´s original instructions, ignoring the government´s failure to compensate the fishermen as the committee had stipulated. How the UNCHR will react if the Icelandic parliament persists in failing to ratify the new constitution and its nondiscriminatory provision on natural resource ownership and management remains to be seen.

The promotion of policies and structures to harness the power of natural resources for the benefit of their rightful owners thus involves law and politics as well as economics. On the one hand, oil prices have been low since 2014 and seem likely to remain low or go further down in the future (Arezki and O. Blanchard, 2014; Aguilera and Radetzki, 2015). This should facilitate the improvement of natural resource management by lowering the stakes of rent seekers. Over 80% of the world's oil consumption is used to power cars and trucks which modern technology now makes it possible to power by electricity instead.[21] The oil age may thus be coming to an end as did coal before. On the other hand, legal challenges to violators before international bodies would be easier to mount if democracy was still on the rise round the world and

[19] Specifically, Wenar argues that governments should prevent their corporations from buying resources from severely repressive regimes and civil warriors. For example, he points out that the US government has since 1997 barred American energy companies from trading with the regime in Sudan, citing the regime's grim record on human rights.

[20] See the UNCHR´s analysis and binding opinion here: http://repository.un.org/bitstream/handle/11176/268220/CCPR_C_91_D_1306_2004-EN.pdf?sequence=1&isAllowed=y

[21] Only 8% of oil consumption is used to power airplanes. Electronic batteries are still too heavy for planes to carry. For an epic history of oil, see Yergin (2009). See also Radetzki (2011).

if the moral authority of the United States in the community of nations was still what it used to be after WWII, but that is not the case.

The United States was practically the world´s sole democracy until 1850 when Europe was swept by revolutions that led to the gradual proliferation of democracy. However, following the outbreak of WWII, there were only five democracies in Europe in 1943: the UK, Ireland, Iceland, Sweden, and Switzerland.[22] Under US leadership from 1945 to 2000 the number of democracies around the world rose to 90, nearly a half of all states, but thereafter the spread of democracy halted again (Diamond, 2015). Even Hungary and Poland, fully fledged EU members, show new signs of dwindling respect for democracy and human rights, flirting openly with "illiberal democracy." The hope that the former Soviet republics would evolve toward liberal democracy after the Cold War did not materialize, with the striking exception of the three Baltic States.

Recently, Freedom House demoted the United States below the democratic rank of several European countries. The rise in US inequality may have weakened democracy. Unequal voting rights tend to weaken resistance against social and economic inequality among politicians who benefit from uneven apportionment of seats in the Senate, discriminatory voter registration practices, and gerrymandering. Five of the 45 US presidents, including two out of three since 2000, took office without having won the popular vote, a clear sign of corrosive systemic flaws. Moreover, increased income inequality has gone along with increased politicization of the US Supreme Court, culminating in its 2010 ruling that no legal limits can be placed on corporate contributions to political campaigns. Unchecked private money in political campaigns exacerbates economic inequality by enabling wealthy donors to dictate their instructions to increasing numbers of politicians.

The worry is that when the United States misbehaves, other countries may consider it safe to follow. Its moral authority in decline if not in tatters, the United States is not in a strong position to support legal challenges to the plundering of natural resources around the world. The isolated opposition of the US government to the Paris climate agreement of 2015 reflects a new reality.

[22] Finland is classified by the Polity IV Project as a full-fledged democracy from 1944 onward.

4. Conclusion

Natural resources belong to the people as a matter of international human rights. The plundering of natural resources, even when permitted by local laws, violates international human rights covenants that supersede national laws. This is why natural resource management is a legal concern as well as an economic and political one. This is what Winston Churchill must have been thinking when he recommended state ownership of natural resources in Uganda in 1908, a form of ownership that is the prevalent model in today´s world with few exceptions. And this is why, in recent years, an increasing number of national constitutions have defined natural resources as a common property belonging to the state on behalf of the people if not to the people directly. Even so, in many countries state ownership by law has not sufficed to secure the right of the people to the rents from their resources. This is why national ownership is needed, anchored as it already is in international bills of human rights (Wenar, 2008, 2016). And this is why national ownership rather than state ownership or other forms of ownership needs to be anchored also in national constitutions and also why it helps to promote peoples´ rights to the rents from their natural resources as well as their individual freedom from discrimination as a matter of human rights to further strengthen the civil rights of ordinary people against self-dealing elites.

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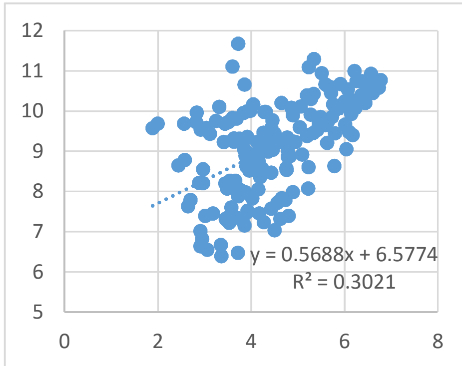
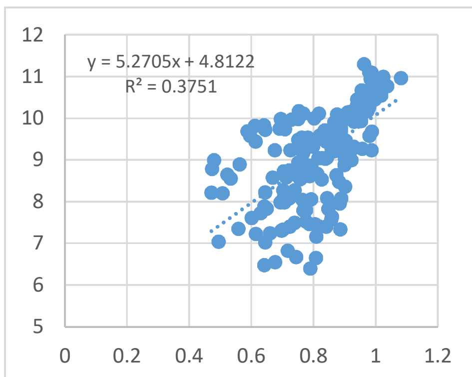
Figure 1. Economic diversification and national income

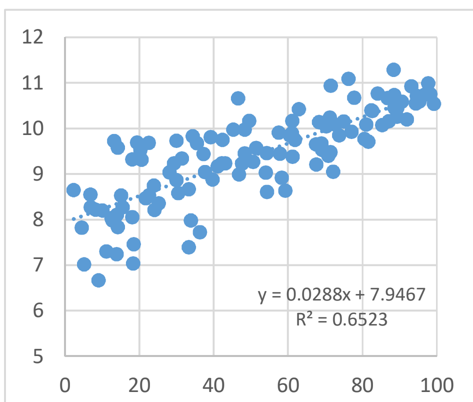
A. Economic diversification: 164 countries, all except six GCC countries



B. Product quality: 168 countries, all except six GCC countries



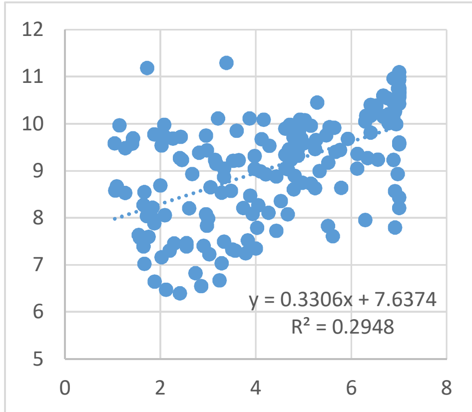
C. Economic complexity: 116 countries, all except five GCC countries



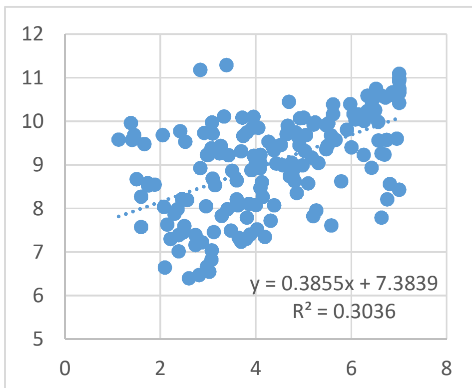
Source: Author´s computations based on data from World Bank, *World Development Indicators*, and IMF (Panels A and B) and Atlas of Economic Complexity (Panel C). Note: Log of per capita GNI on vertical axes. Rising curves mean more diversification. Panel A: Inverted Theil index of export diversification on horizontal axis, defined as 8 – Theil; Panel B: Product Quality Index on horizontal axis; Panel C: Economic complexity on horizontal axis, defined as 100*(1 – rank/124) where 124 is the number of countries included in the ECI ranking in Hidalgo and Hausmann (2009). The six GCC countries excluded from Panels A and B are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates. The ECI is not available for Bahrain so only five GCC countries are excluded from Panel C.

Figure 2. Political diversification and national income

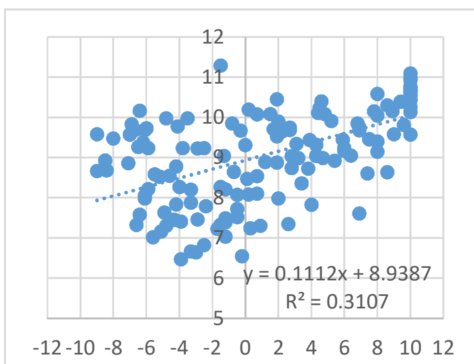
A. Political rights: 171 countries, all except six GCC countries



B. Civil liberties: 171 countries, all except six GCC countries



C. Democracy: 147 countries, all except five GCC countries



Source: Author´s computations based on data from World Bank, *World Development Indicators*, and Freedom House (Panels A and B) and the Polity IV Project (Panel C). Note: Log of per capita GNI on vertical axes. Rising curves mean more diversification. Panel A: Inverted political rights index, defined as 8 – PRI, on horizontal axis; Panel B: Inverted civil liberties index, defined as 8 – CLI, on horizontal axis; Panel C: Polity2 index of democracy on horizontal axis. The six GCC countries excluded from Panels A and B are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates.