Is EITI really helping improve global good governance?

Examining the Resource Curse, Corruption, and Nigeria's EITI Implementation Experience

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INTRODUCTION

The Extractive Industries Transparency Initiative (EITI) was created in 2002/2003 as an international attempt to improve transparency – and therefore, accountability - in governments and extractive producers in resource-rich countries. It is based on the observation that corruption is entrenched when massive revenues from extractive industries are not managed on behalf of the common good of a country's citizens.

EITI attempts to reduce corruption by focusing primarily on the 'A' component of Robert Klitgaard's well known corruption equation:

(C)orruption = **(M)**onopoly + **(D)**iscretion – **(A)**ccountability[1]

By shedding a transparent light onto the financial flows and processes of the global extractive industries, EITI holds the possibility of also improving the other components of the equation, for example, by reducing Monopoly and Discretion by encouraging a competitive oil license bidding process. Ultimately, EITI hopes to create the environment for reduction of poverty and associated social conflicts, and improvement in political stability, in resource-rich developing countries.

EITI is a voluntary coalition of governments, corporations, civil society groups, investors and international organizations. There is no question that some improvements in governmental accountability have resulted from the implementation of EITI, yet there are also many weaknesses that have become apparent, as well as significant concerns with the assumptions underlying the program's design. This paper argues that EITI does have an important role to play, but this will only be fully realized if the EITI International Board and Secretariat make significant changes to their engagement strategy.

RESOURCE CURSE

The ubiquity of corruption in most resource-rich countries has been well documented, and contributes to what has become known as the 'resource curse': that instead of the additional revenue from mineral resources being a blessing to improve lives, that in fact the presence of those resources can harm the countries where they are extracted. Interestingly, the 'resource curse' thesis is relatively new; it only emerged in academia in the mid-1990's, and over the next five years it spread into the popular mainstream.[2]

The first academic works of note exploring this concept were *Natural Resource Abundance and Economic Growth*, a 1995 paper by Jeffrey Sachs and Andrew Warner, and Terry Lynn Karl's 1997 *The Paradox of Plenty*. Global Witness' path-breaking work in Angola was documented in a 1999 report *A Crude Awakening*, which also served to bring widespread attention to the problem. These and other reports and studies made it very clear how oil revenues (and by extrapolation, any mineral revenues) frequently served to help a very narrow and unseen segment of elite grasp political control without accountability to the citizens of their countries.[3]

Resource-rich countries have varied on their experience of the resource curse. While both Botswana and Sierra Leone have great resources of diamonds, Sierra Leone has experienced endemic conflict while Botswana has experienced an average growth rate of 5.2% between 1974 and 2002. In the mid-1970's, both Indonesia and Nigeria's economies were significantly dependant on oil revenue, and both countries had similar per capita incomes, yet since then Nigeria's per capita income has fallen, and is only ¼ the level of Indonesia's per capita income.[4]

An important distinction is that the term 'resource curse' does not refer to the mere presence of untapped extractive resources such as oil; it is more applicable to economies that derive a very large majority of their revenue from these resources. According to Terry Lynn Karl, "this dependence is generally measured by the extent to which oil exports dominate total exports (usually from 60 to 95 percent of total exports) or by the ratio of oil and gas exports to gross domestic product – a figure that can range from a low of 4.9 percent (in Cameroon, which is running out of oil) to 86 percent (in Equatorial Guinea, one of the newest exporters).[5]

There are a many aspects to how the 'resource curse' manifests its negative impacts, and each resource-rich country will vary in its experience of the 'resource curse' based on many different factors, some measurable and other not easy to quantify. However, some of the key contributing factors to the poor economic performance of so many resource-rich countries are summarized below. In particular, the focus is on how the resource curse affects oil-rich countries, although many of the concepts apply to other extractive industries as well.

Oil price volatility: The global markets for all raw extractive resources tend to be volatile, but the global oil market is arguably the world's most volatile. Policymakers in resource-rich countries may have great difficulty managing the sudden price changes and frequent boom and bust economic cycles. This volatility can make it difficult to enforce fiscal discipline in budgets and expenditures, and is proven to have a dampening effect sustainable investment, improved income distribution, and reduction of poverty.[6]

During a price boom, government ministries are aware of the immense revenue available and can create greatly unrealistic budgets. "In Kenya, one ministry raised its proposed budget thirteen-fold and refused to prioritize. Probably it reckoned that other ministries were likely to do the same, so behaving responsibly was likely to leave it at the back of the line".[7] But often the bigger problem is when the commodity price drops precipitously, the non-essential items that were added to the budget for patron-client purposes stay in, while the more essential items that serve the less politically powerful are dropped.

In addition, the boom and bust phenomenon makes it difficult for electorates to sort out when their governments are making mistakes. In the first half of the 1980's, Nigeria enjoyed an oil boom, which the government totally mismanaged by borrowing heavily and spending on wasteful projects that were endemic with corruption. However, from the point of view of the typical citizen, they were seeing positive impacts in their lives so they had a positive view of the government. When the oil boom ended in 1986 as a result of the crash of the global price of oil, there was far less money available and the banks wanted to be paid back their loans. Nigerian living standards dropped by almost half. At the encouragement of the IMF, some fiscally responsive measures were implemented; however their positive effect was overwhelmed by the impact of low oil prices, and so the electorate was unable to distinguish good governance from bad.[8]

Dutch Disease: The concept of 'Dutch disease' was named after observations of the effects of North Sea gas on the Dutch economy. When a large portion of an economy consists of resource exports, the currency value often rises as a result of international demand for the resource. This negatively impacts the ability for other exports to compete in the world marketplace, resulting in less diversification and lost opportunities for growth in industries that might have greatly improved conditions.

In Nigeria, for example, oil had been discovered in 1956, and took a few decades to build up to a significant portion of GDP. Previously, Nigeria had been a massive exporter of agricultural products to the other African nations. Yet, "from her status as 'food basket' in the 1950's and 1960's, Nigeria has now become one of the countries with a long history of begging bowl because she can no longer feed herself".[9]

How did this happen? As oil exports became an increasingly large portion of the domestic budget, the exchange rate also increased and the country's other exports – such as peanuts and cocoa— stopped being produced because they could no longer make a profit at the higher exchange rate. The entire agricultural sector was adversely impacted, and in the long term this helped create a situation where the country was dependent on imports to feed its citizens, certainly a contributing factor in the decrease of the Nigerian GDP previously described.

However, agricultural exporting was a mature industry; the real tragedy of 'Dutch disease' is where smaller, newer industries that would have the potential for rapid growth also get crowded out. For example, the labor intensive manufacturing of products for export being done by China and India would likely never develop into a significant industry in a resource-rich country because the foreign exchange they generate is not as valuable as the revenue generated by oil exports.[10]

In response to the loss of competitiveness of other exports due to exchange rate increases, policymakers often adopt strong protectionist policies in order to sustain these other economic activities, placing a further funding burden on the oil sector by intensifying dependence on oil revenue, and increasing the likelihood that capital will be invested inefficiently.[11] In addition, this syndrome further intensifies the negative impact of oil price volatility.

<u>Weak Institutions and Governance</u>: High rents from resources make possible a political system based on patronage, even in democracies, and particularly in ethnically diverse democracies, where the patronage system serves to ensure the support of particular groups, and large sections of the population often receive little if any gain from their country's resources.

The tendency toward a focus on short-term thinking in governance of democracies (focusing primarily on success in the next election) and the typical term limit constraint in most democracies (creating 'lame duck' terms with no electoral accountability) can cause a lack of long term investment so essential to a nation's economic health. In many resource-rich nations, elections are held in name only, with proceeds of resources being used to pay off voters or inhibit elections from taking place. Massive proceeds from resources allow governments to ignore the accountability that would otherwise occur from the tax system, enabling elites to act with impunity on their own behalf.

Importantly, the downward spiral referred to as the development trap does not happen in all resource rich countries. Those countries with strong institutions – rule of law, active civil society, strong middle class, checks and balances on power, independent judiciary and free press

– already in place prior to the discovery of significant levels of extractive resources appear to be able to resist (or at least control) the temptation for elites to grab the resources for personal gain. However, those developing countries which obtained their independence and began earning revenues from vast resources at approximately the same time have had a very difficult time developing a tradition of good governance and instead evolved into patronage politics.[12]

International Aid: For decades, the international community has attempted to address the endemic poverty in developing nations by using gifts of aid and large loans. The results have been very disappointing, with little of the aid going to benefit those most in need; massive loans have generally resulted in countries with nothing to show but a huge debt that handicaps subsequent generations and governmental administrations. Until the corruption that siphons off those monies is under control, it will be difficult for assistance from the international community to effectively impact poverty.

In fact, there is increasing evidence of 'donor fatigue' in the face of global economic challenges and the massive revenue flows to developing countries from the sale of oil. In Africa, for example, it is estimated that over the next decade $50 billion in investment funds to develop the oil industry will be funneled to the continent. During that same period, $200 billion in oil revenue proceeds will be paid to sub-Saharan African governments. Donors are pressuring governments to apply these funds toward poverty reduction, instead of reliance on international aid for this purpose. As international emphasis among donors shifts from aid to trade, African governments will be expected to more effectively maximize the use of windfall revenue from oil and other extractive resources.[13]

Negative Impact on Skills and Education: The petroleum industry in particular is the world's most capital and technologically intensive industry; as a result, it creates relatively fewer jobs than other industries. The jobs it does create are highly skilled, and often filled by foreign workers, due to the lower educational levels and capabilities in developing countries. "This robs oil exporting countries of the benefits from the 'learn by doing' process that is the crux of economic development. Contrast this with resource-deficient countries where demand for education is high, especially from the manufacturing sector. Skill accumulation occurs at a more rapid rate, and wealth inequalities tend to be less common in these countries."[14] In resource-deficient countries, economic growth is sustainable because it results from real increases in productivity, not merely from oil revenue that has little real impact on jobs or infrastructure.

Environmental Damage and Livelihood Reduction: The various 'resource curse' issues listed above typically affect the population across an entire country, on a relatively equal basis. However, the environmental damage caused from resource extraction, and the frequently experienced reduction in ability for indigenes to continue with traditional livelihoods, is often experienced to a much larger degree in the regions directly affected by the extraction process.

In the Niger Delta of Nigeria, for example, 50 years of onshore and offshore oil drilling has had devastating consequences: people have to drink, cook with and wash in polluted water; they eat fish contaminated with oil and other toxins; gas flares put pollutants in the air, causing breathing and skin problems and creating acid rain which destroys farmland. Millions of people are affected, especially the poorest individuals and those who rely on fishing and agriculture – and almost everyone in the Niger Delta once relied on those livelihoods.[15]

Certainly, even more negative impacts of the ‘resource curse’ could be included, but this provides a broad overview of the key issues. Not all of the issues included in the umbrella term ‘resource curse’ are directly related to corruption, but it is clear that an improvement in good governance could have a vast beneficial impact on the ability to turn the ‘resource curse’ into a ‘resource blessing’.

ATTEMPTS TO ADDRESS CORRUPTION

A number of approaches to reducing corruption have been tried over the last several decades – with varying levels of success – both in the international arena in general, and in resource-rich countries in particular. An overview of some of these initiatives will help provide an understanding of the foundation of the EITI.

The U.S. Foreign Corrupt Practices Act of 1977 prohibited questionable or illegal payments made by U.S. citizens or corporations to foreign government officials, politicians or political parties. While this law was useful in reducing American involvement in foreign bribery, it did nothing to address illegal payments made by non-Americans; furthermore, U.S. corporations felt that the law put them at a competitive disadvantage as compared to corporations based in other countries which even allowed tax deductions for bribes.[16]

In 1999, the Organization for Economic Co-operation and Development (OECD) passed the OECD Anti-bribery Convention, the purpose of which was to control payments from multinational investors to public officials in developing countries. Since then, all 30 OECD countries and a number of non-OECD members have enacted anti-bribery laws based on the convention, making it illegal for one of their multinationals to bribe an official in a host country a punishable offense. However, the OECD Convention requires that domestic legislation be passed by each member state for the purpose of criminalizing any payments made directly to a public official by an international company in order to win a contract. It has become clear that many corporations have been able to flout the intention of the convention in such a way that would still be interpreted as being legal, for example by making payments to family members or close friends instead of directly to public officials.[17]

In 2000, the World Bank was confronted at their annual meeting by a coalition of NGOs led by Friends of the Earth, requesting that the Bank end their financial support for extractive industry (EI) projects in developing countries.[18] The NGOs claimed that the adverse environmental, social and governance affects of these projects outweighed any benefit to the domestic economies and the poor. Under pressure from various governments and the international NGO community, World Bank President James Wolfensohn commissioned a review of the Bank’s funding of energy and mining projects in 2001. The report concluded much was lacking in the area of reducing the negative environmental, social and governance impacts of their projects. In particular, the Bank had inadequately addressed governance and revenue management; the report noted that only about 15% of the Bank’s EI projects required financial disclosure.[19]

The review commission called on the Bank to phase out funding of all oil projects by 2008 and to stop funding coal mining projects. Staff at the World Bank also began to examine whether the Bank’s efforts in the mining sector were in line with the Bank’s mission of alleviating poverty.[20]

However, the Bank Board decided that EI projects would continue to be funded, with the provision that projects be required to demonstrate they are doing the following: advancing the needs of the poor, fostering transparent and effective public and corporate governance, and enabling social and environmental progress. In support of that effort, one arm of the Bank, the International Finance Corporation (IFC), required "all investors it supports to make public their payments to government from their operations."[21]

Meanwhile, the Publish What You Pay (PWYP) initiative was launched in 2002, driven by the London-based Global Witness (GW), and backed by George Soros' Open Society Institute. In 2006 the Revenue Watch Institute became independent from the Open Society Institute and focused heavily on the PWYP initiative. The founding members of the coalition also included Save the Children UK, Oxfam GB, Catholic Agency for Overseas Development (CAFOD) and Transparency International UK.[22]

PWYP recognized that mining, gas and oil companies cannot control how governments spend their revenue, but do have a responsibility to disclose how much is paid so that the public can hold their governments accountable. Their approach to addressing this issue was to propose a mandatory requirement that investors in extractive industries make public all taxes, fees, royalties and other payments made to host governments, before being allowed to list their shares on international stock exchanges and financial markets.

However, the PWYP approach had two main challenges: it did not address the pervasive use of confidentiality agreements signed by foreign investors at the insistence of host countries, and by linking the 'punishment' to stock exchange listings, it put publicly traded extractive companies at a competitive disadvantage compared to state-owned or privately held companies.[23] Exxon Mobil was particularly vocal, pointing out that government-owned oil companies, which at that time controlled 65 percent of the world's oil production, would be exempt from disclosing their oil payments.[24]

DEVELOPMENT OF EITI

In an attempt to address these various shortcomings, Tony Blair, representing the government of the United Kingdom, launched the Extractive Industries Transparency Initiative (EITI) at the World Summit on Sustainable Development in Johannesburg in 2002. The EITI focused on transparency at the country level, by encouraging EI companies, governments, investors and NGOs to work together voluntarily to promote revenue transparency.

In 2003, the World Bank endorsed the EITI and created a multi-donor Trust Fund to promote transparency. The Bank began to work with developed and developing country governments to gain support for the initiative and to provide training for government officials and civil society organizations that might serve as monitors and auditors. And in May 2003, a statement in support of the EITI was issued by a group of institutional investors representing about $3 trillion.[25]

EITI has 12 principles that were established at the first EITI conference in 2003; these principles encapsulate the importance of transparency by both governments and non-state actors, and the need for collaboration between the public and private sector as well as civil society to ensure accountability and good governance:[26]

i. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.

ii. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.

iii. We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.

iv. We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.

v. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.

vi. We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.

vii. We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.

viii. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.

ix. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business,

x. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.

xi. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.

xii. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations.

Quickly it became clear that these principles needed to be translated into operational criteria, and in March 2005 the following criteria for successful implementation of EITI were established:[27]

- Wide publication of payments and revenues from extractive industries;
- Independent audits by credible auditors using international accounting standards
- Reconciliation by an independent administrator of payments and revenues reported, with discrepancies noted
- Involvement in the process by all types of EI companies – private, public, state-owned
- Active participation by civil society in design, monitoring and evaluation of the process

- Development of financially sustainable work plan, disseminated to the public, with measurable targets, implementation timetable and assessment of capacity constraints.

Essentially, the EITI criteria describe three basic principles:

1) there must be independent verification of payments and receipts;
2) civil society must be involved in the process - it cannot be controlled exclusively by the government; and
3) participation by governments is voluntary, however once a country endorses the initiative, all EI producers operating in that country are expected to participate.

An initial group of countries endorsed EITI and starting implementing it: Azerbaijan, Cameroon, Guinea, and Nigeria. Subsequently, more countries joined the initiative Chad, the Republic of Congo, Gabon, Ghana, Kazakhstan, Kyrgyzstan, Liberia, Mali, Mauritania, Mongolia, Niger, Peru, and Yemen.[28]

NIGERIAN EXPERIENCE WITH IMPLEMENTING EITI

Nigeria has long been Africa's greatest producer of oil, with a production capacity of 2.5m barrels per day. Nigeria's oil industry has in the recent past accounted for about 80% of fiscal revenues, 90-95% of export revenues, and 30-35% of GDP.[29] Oil is, for all intents and purposes, the most important source of revenue in Africa's most populous country.

Since Nigeria was one of the first countries to take serious steps toward implementation of EITI, and is often held up as the 'poster child' for the initiative, the Nigerian process can provide important information to better ascertain whether or not the implementation of EITI is accomplishing its goals.

President Olusegun Obasanjo launched the Nigerian Extractive Industries Transparency Initiative (NEITI) on February 19, 2004. Nigeria quickly began to require all oil companies to "publish what they pay" and government officials to make public where the money goes. For example, the Nigerian government immediately applied the requirement to the 2004 agreement for a joint development zone with Sao Tome and Principe.[30] In addition, the joint development authority agreed to make public the basis for the award of all oil interests and procurement contracts in the zone.

Obi Ezekwesili was appointed to lead the NEITI, which proceeded with a formal implementation process.[31] The first step in the process was to create a National Stakeholders Working Group (NSWG) to implement EITI; the high-powered multi-stakeholder group was comprised of 28 members from government, corporation (both domestic and multinational), civil society, media, private sector, and the legislative branch (National Assembly and State Houses of Assembly).

The stated objectives of the NSWG were to:

1) complete an independent audit of the oil and gas industries;
2) codify the EITI principles into law so that the audits would continue into future administrations;

3) provide support to build capacity among civil society and government agencies so they could handle their responsibilities under EITI; and
4) develop a communications strategy about the initiative that would, among other goals, foster a sense of ownership and stewardship of resources among Nigerians.[32]

Five operational teams were constituted: a Technical team to evaluate bids for all NEITI assignments; Legislative team to strategize and support translation of EITI principles into law; Focal team to develop, find funding for and implement training, workshops and conferences; Civil Society team to create communication strategy to disseminate information throughout country and civil society groups; Media team to publicize the work of NSWG and to invite responses from broad spectrum of society.[33]

An internationally recognized accounting consultancy firm experienced in extractive industries projects, the Hart Group from UK, was hired to do the audit for years 1999-2004. Audit results were presented in early 2006, in several phases, with stakeholder review sessions held to review each draft before being finalized. The quality of the audit was considered very high, as it exceeded the international EITI standards.[34]

Three audits were actually performed: a Financial Audit, which reconciled payments and revenue, mapped the financial flows in the oil and gas sector, and identified systemic issues in the government financial system that impacted transparency and accountability; a Physical Audit, which tracked the actual movement of oil and gas from extraction through refinement/export; and a Process Audit, which reviewed the process affecting financial matters throughout the entire extractive industry.[35]

A number of significant irregularities and systemic blocks to transparency were found in the three audits. The Financial Audit found: a serious lack of information sharing between government entities such as the Federal Inland Revenue Service and the Central Bank of Nigeria, making payments impossible to reconcile; confidentiality provisions between the government and EI producers which blocked release of necessary information; upstream operators who submitted low monthly estimates of petroleum taxes owed but never followed up to reconcile their payments; complex formulas for calculating payments due from extractors that reduces transparency, verification and accountability.

The Physical Audit found many irregularities in the way oil companies accounted for their oil, with the end result that a misleading assessment of the amount of oil volume being extracted was regularly generated, along with an underreporting of the amount of unaccounted oil. While the oil industry problems were significant - very weak standards, unreliable reporting by oil companies, and unenforced arrangements - the audit of the gas industry was even worse, with a total lack of regulation.

The Process Audit showed irregularities with marketing and enforcing prices, in particular with the domestic energy supplier NEPA, which was well-known for frequent nonpayment of gas bills. The licensing process for oil and gas was found to be ambiguous and arbitrary; the bidding process had little if any transparency. A conflict of interest was found with the NNPC serving as both the joint venture partner representing the Nigerian interest in oil extraction and also the supervisor of operations.

On each of the findings from the audit report, specific recommendations were made by the auditors for improvement, while acknowledging that since so many of the issues were systemic in nature, the solutions would not be easy. Following the submission of the final report and strategy meetings with the covered entities, the report was disaggregated so that the sections pertaining to each individual entity could be distributed, showing what needed to be done.[36]

There were some good outcomes from this process: it was the first comprehensive audit of the oil and gas industry in Nigeria, the international community had provided significant support for the process and appeared engaged in continuing that support, and some of the overall recommendations appeared likely to have a positive impact on areas of government other than the oil and gas industry (for example, the issue of sharing information among governmental entities).

The NEITI Act, which codified the provisions of EITI into Nigerian law, was successfully passed on 28 May 2007, the day before Obasanjo stepped down as president. With its passage, Nigeria was the first country to have statutory backing for EITI implementation, an occurrence acclaimed widely in EITI communications.[37] However, although the audit itself was thorough, there did not appear to be the political will to follow through with action on the issues it raised. Since the audit's release and the passage of legislation, progress has significantly slowed on implementation of the EITI. The transition to a new federal administration and significant personnel changes in the NEITI staff and board have contributed to this delay.[38]

MID CYCLE CORRECTION: CHANGES TO THE EITI PROGRAM

As the number of governments implementing EITI began to grow, it became increasingly clear to NGOs, policymakers, scholars and the EITI Board itself that EITI was not really working. It did not require governments to ensure that citizens were able to comment on what was being reported by the extractive firms and the governments. There were no deadlines to the initiative, nor did it have teeth. As occurred in Nigeria, many countries had stated their intention to proceed, made a few tentative steps, and then no further progress was made. EITI advocates and staff determined that the process would need greater structure and specific timelines in order to be effective.[39]

At this point, the EITI Board took several actions. On September 26, 2007, the EITI International Secretariat was officially launched in Oslo. The Head of the Secretariat, Jonas Moberg, was made head of a small staff that included four Policy Advisors, a Communications Manager and an Executive Secretary. "The Secretariat is responsible for the coordination of EITI implementing efforts worldwide. Its role includes: outreach and advocacy, communication and sharing lessons learned with stakeholders, managing a resource centre on revenue management and transparency, and oversight of the new Validation process. It organises, jointly with host governments, the bi-annual EITI Conference".[40]

In two incremental steps between September and December 2007, the EITI Board revised and expanded the process for countries to implement EITI, as follows:[41]

1. Satisfy the four "sign-up criteria", which are: issue an unequivocal public statement regarding the intention to implement the EITI, demonstrate a commitment to work with

civil society and the private sector, appoint a senior individual to lead the implementation process, and publish a detailed work plan and budget.

2. Countries that have taken the minimal four steps are designated as *EITI candidate countries*, and have two years to complete the full validation process.
3. The validation process includes: a) having a credible, independent administrator who oversees disclosure of all material revenues received by the government from the extractive sectors, b) engaging one of the six EITI accredited auditors to validate what the government discloses, and c) creating and engaging with a multi-stakeholder group and incorporating their input throughout the process.
4. Countries that do not complete the validation process in the two year timeframe are asked to leave the initiative, although those that are demonstrating significant progress in completing the validation process may be granted an extension.
5. Countries that have successfully completed validation become *EITI compliant countries.* Compliant countries are expected to continue satisfying the EITI criteria, and must repeat the validation process every five years (or more frequently if irregularities are suspected).

As of December 2009, thirty countries are now active at various levels within the EITI Implementation program. Interestingly, in February 2009 Azerbaijan was the first to successfully complete the validation process and be accepted as an EITI compliant country, although it is consistently rated as one of the world's most corrupt countries.[*] In October 2009, Liberia was designated as the second EITI compliant country.

Candidate countries which had joined the initiative prior to March 2008 were all given a validation deadline of March 2010. This included the large majority of countries enrolled in the program: Cameroon, DRC, Equatorial Guinea, Gabon, Ghana, Guinea, Kazakhstan, Kyrgyz Republic, Madagascar, Mali, Mauritania, Mongolia, Niger, Nigeria, Peru, Congo, Sao Tome and Principe, Sierra Leone, Timor-Leste, Yemen.

A May 2010 deadline applies to Cote d'Ivoire and a November 2010 deadline applies to Central African Republic. Deadlines in 2011 apply to the more recently accepted countries of Albania, Burkina Faso, Mozambique, Norway, Tanzania, and Zambia. Afghanistan, Indonesia and Iraq have signaled their interest in the EITI program, but have not yet satisfied the initial four criteria to become official candidates.[42]

NIGERIA REVISITED

While the revised EITI guidelines appear to have motivated some countries to work toward completing the validation process (notably Liberia and Azerbaijan), the new guidelines appear to have had little impact on Nigeria's progress with implementing reform and accountability. New research published in November 2009 explains many of the puzzling questions as to why Nigeria was – to the surprise of the international community – so quick to embrace EITI in 2004; and

[*] Transparency International has rated Azerbaijan 130th (2006), 150th (2007), 158 (2008) on its Corruption Perception Index (Transparency International 2009). Global Integrity scores Azerbaijan as 'weak' for 2008, and states, "Azerbaijan continues to boast a strong legal anti-corruption framework across many sectors but suffers from little to no practical implementation. " (Global Integrity 2009).

why, after such a promising beginning, progress seems to have come to a standstill. What small progress that has been made seems to have been incited by other pressures and interests – and, as discussed below, it now appears that even the initial efforts by Obasanjo may have other agendas besides compliance with the EITI process.

Obasanjo's personal agenda. Obasanjo entered office in 1999 as the first democratically elected president after many years of military rule. Great things were expected of him, by his countrymen, the African continent and the international community. After one term in office, and a reelection marred by corruption, his reputation had hit rock bottom – and he was very concerned about his legacy. As one Nigerian politician explained, "Obasanjo had gone to Davos and had no friends; he was invited to no meetings. He wanted to go to Davos and not feel like a pariah." Another interviewee added, "The fact that Obasanjo did care about his reputation gave the international community more leverage. That meant something." As soon as Obasanjo announced he would be embracing the EITI, he and Tony Blair developed a strong relationship.[43]

NEITI did not drive reforms. One assumption made by the EITI Secretariat and the international community was that the NEITI was the driver for many of the positive steps taken by Nigeria during 2003-2006. However, it is more likely that other factors were more important, and the NEITI was merely a convenient vehicle, rather than the motivating factor.

After Obasanjo's reelection in 2003, he had consolidated domestic political power enough to be able to push for reforms. It appears that part of the motivation was his personal reputation (as described above), and (as described below) part was impressing international creditors in order to reduce Nigeria's massive debt, while doing it in a fashion least likely to negatively affect his own constituency of elites and godfathers.

Since 2000, the Nigerian Oil and Gas Implementation Committee (OGIC) had been trying with little success to pass reforms that would result in significant realignment of the oil and gas industry – far more than what EITI required; these reforms could have threatened Obasanjo's access to funds. When EITI was introduced, Obasanjo quickly aligned himself with it as a way to demonstrate a commitment to fighting corruption while minimizing the potential risk to his financial platform.[44]

Restructuring Nigeria's debt was also a key motivator. By 2005, Nigeria had accumulated $US30 billion in external debt; a high priority for Obasanjo's second term was renegotiating that debt so the funds could be diverted elsewhere. Upon observing his leadership on the EITI, the Paris Club of creditors – which held more than 85% of Nigeria's debt – agreed to write off $18 billion, finalizing the deal in April 2006 on the understanding that reform would continue. However, soon after the deal was finalized, the reform team that had been assembled by Obasanjo and who had so favorably impressed the Paris Club creditors was reassigned or retired, helping bring to a close the reform process.[45]

Success required political will. As one of Obasanjo's key ministers, Ngozi Okonjo-Iweala, observed, "Without his political will none of this could have been done because, as you can see, some of the reforms were very difficult."[46] Any reforms to a system that rewards in such massive ways an entrenched group of elites and other stakeholders must clearly be considered within the overall political environment. For example, significant political efforts must have been at work for Shell and ExxonMobil to reverse (for Nigeria only) previously held positions related to how much detailed financial data they were willing to disclose, and to join with Chevron to enthusiastically participate in the process with the NSWG.[47]

However, the downside was that when the political will subsided, the reform process subsided and even backtracked. After the reform team was disbanded, the final nail in the coffin was when Obasanjo decided to try to have the constitution changed so he could run for a third term, partly to extend his power and access to money, partly to continue reforms. However, this required tremendous money to pay off all the constituencies who were involved in that process, and he could no longer afford to alienate the elites who were the natural targets of the EITI reforms. As one individual close to the process said:

"The more he wanted the third term, though, the more he had to depend on those elites. If in '06 he'd not [consulted with those elites] and instead had sat with Ngozi [from the team], with 18 months left he could have burned all of his political capital doing good things and then trusted to God for the rest. Once he started talking about the third term, this became impossible."[48]

Audits – the rest of the story. One of the few areas of lasting success that most observers seem to agree on is the breadth and quality of the NEITI audits. The audit reports contributed in an important way to providing greater transparency in Nigeria's oil industry. By going far beyond the basic core requirements of global EITI, they have aided both insiders and outsiders to understand the big picture of Nigerian oil.[49]

As mentioned earlier, it was widely assumed that the decision to perform such in-depth audits represented an enthusiastic embrace of EITI. The EITI Secretariat spoke frequently in glowing terms, in newsletters and press releases, of Nigeria's commitment to the EITI based on these completed audit reports. However, while the first audit covering the years 1999-2004 was completed in 2006 and released the same year, the second audit – covering the year 2005 – was completed in 2007, yet its release was delayed for two years.

Perhaps the long delay was an attempt to hide internal shortcomings with the Nigerian governmental oil sector. One of the major findings of the second audit (2005) was that the state-owned Nigerian National Petroleum Corporation had failed to pay taxes and royalties to the government estimated in the range of $US4.7 billion.[50] In fact, the release of the 2005 audit came only one day before U.S. Secretary of State Hillary Clinton's August 12, 2009 visit to Abuja to meet with President Yar'Adua, during which there was significant emphasis on issues related to corruption. During the visit she stated, "We strongly support and encourage the government of Nigeria's efforts to increase transparency". Assistant Secretary of State for African Affairs Johnnie Carson added that "Nigeria is undoubtedly the most important country in sub-Saharan Africa; it faces challenges with respect to corruption and has been described by a number of organizations as the most corrupt state in Africa and we all know what corruption can do to public confidence."[51]

Other Follow-up. The NEITI Act, which was received with great fanfare by the EITI Secretariat and others in 2007, has never been implemented; the NEITI is rarely mentioned in the Nigerian media and the NSWG has been inactive for years, with the exception of the recent release of the 2005 audit.

Civil society in general has for the most part ignored NEITI; the one exception has been the Publish What You Pay – Africa group, which receives most of its funding from Revenue Watch Institute, one of the major sponsors of EITI. At the PWYP-Africa regional meeting in Abuja in September 2008, there was strong agreement that Nigeria's continued progress was essential to encourage other African nations to also implement EITI. The organization noted the importance of the passage of the 2007 NEITI act and commended the new validation process, but expressed concerns that the African Union was not more involved, and that complex validation requirements would be beyond the reach of many developing countries before the 2010 deadline.[52]

ASSESSMENT OF EITI

The EITI initiative is now in its sixth year, and this seems a good time to make an assessment of its value toward achieving transparency and accountability – and reducing corruption – in the extractive sector. Since the program has already had one round of revisions based on the experience of the first few years, it is useful to see what parts seem to be working, and if there are underlying challenges or assumptions which may affect future success.

The choice to focus in this paper on examples from Nigeria's experience with the EITI is not intended to imply that all countries will have the same experience (in fact, quite the opposite). Yet the length of time Nigeria has been working on the initiative, its role as a leader in oil and gas as well as in perceived corruption levels, and the fact that the NEITI has been the subject of significant academic review and research – make Nigeria a very useful country to consider in this way.

I propose below that some aspects of Nigeria's experience have universal implications, while other aspects demonstrate the unique situation on the ground in each host country, which may undermine the 'cookie cutter' approach seemingly being used by the EITI Secretariat and Board.

Assumption about the Role of Civil Society

A key expectation underlying the EITI is that by exposing audit information to public scrutiny, civil society will be able to hold the government accountable and impact public policy. However, a complex audit report, posted on the internet in developing countries where frequently less than 20% have reliable internet access, using sophisticated language and analysis in countries which often have significant levels of illiteracy, is unlikely to mobilize the citizenry in a broad and meaningful way. While the media could play a role in translating the essential elements, journalists often lack the deeper understanding needed to analyze the intricate money flows – nor are their readers typically in a position to demand this type of information.

In Nigeria's case, although the NSWG had as a goal the broad dissemination of information from the 1999-2004 audit to civil society, it appears the primary effort in this regard was in the form of 'road shows' that were delivered in various regions of the country. These did not cover sufficient numbers of people or educate them in the depth needed for true civil society accountability to be possible.

In addition, those from civil society who do participate may not be the best representatives of the broader society. One individual interviewed for Shaxson's report described it this way: "There was an MOU with civil society. They got a briefing before every NSWG meeting. But a lot of them were single person self-promoters. Ngozi [Okonjo-Iweala] called them 'non-governmental individuals.'"[53]

The World Bank attempted to address this issue by providing grant funding for civil society groups to enhance their capacity to hold developing country governments to account. In addition, NGOs such as Publish What You Pay, Revenue Watch and Transparency International have been training budget activists. Revenue Watch funded two guidebooks – "Follow The Money," intended for civil society, and "Covering Oil," intended for journalists – in an attempt to help various stakeholders understand and report on extractive industry issues. Similar efforts have been made by other international funders to build civil society capacity in the various EITI countries.

These capacity building programs are helpful, but they are not sufficient to ensure effective civil society participation. Civil society groups are encouraged by EITI to work with other concerned parties to press for transparency, to stay informed on the process and create a website so that other citizens can communicate with members of the multi-stakeholder groups monitoring EITI in each country,[54] even the privileged few with access to the internet cannot play this role unless policymakers provide access to understandable information and citizens feel comfortable organizing, commenting and challenging public policy.

Even if information is made more available, there are structural problems with the civil society dynamic that may be difficult to address, "resulting from the fact that oil gives the ruling classes so much untrammeled power."[55] In these cases, there is typically little history of civil society participation, and in some cases those who speak up about extractive industry revenues are ostracized or punished. For example, several years ago, Angola detained Sarah Wykes, a British campaigner for Global Witness. Although the specifics of the charges are unclear, she was evidently accused of violating national security as a result of meetings she had educating about oil revenue transparency with local civil society organizations.[56] Even in countries where civil society is respected, cultural and educational challenges may have a negative impact on the role envisioned by EITI. Attendees at the September 2008 PWYP Africa regional meeting noted and condemned "the repeated cases of harassment of transparency campaigners across the continent."[57]

Transparency may not lead to accountability

Audits may find serious financial irregularities, but that doesn't necessarily mean that governments will take the steps necessary to correct all of the problems. In the case of Nigeria, the auditors were only given authority to identify the discrepancies, not to find out what actually happened to the oil and the money. While the improved and better-defined EITI validation process may help address this situation, it is not clear that the governments will follow through to implement recommendations. As Shaxson put it, "It is one thing to *enlighten* citizens; it is another thing to *empower* them."[58] Transparency without accountability will mean there are no substantive consequences for those who have engaged in corruption, and therefore will undermine the entire intention of the EITI.

Pre-existing government / extractor agreements

Many government agreements with extractive producers contain confidentiality clauses, which have been exercised in a number of EITI audits to allow the producers to avoid disclosing key, potentially incriminating information needed to properly complete the audit process. In addition, recommendations made by auditors related to changes needed in the way the extractive producers conduct various aspects of their operations may be blocked by the terms of long term agreements already in place (typically negotiated with no public scrutiny); these have often been drafted in such a way as to exempt the companies from making any changes until the agreements are formally renewed. Ultimately these agreements would need to be renegotiated in order to address these issues.

However, in actions separate from EITI, there seems to be progress addressing this issue. In September 2009, Revenue Watch Institute issued *Contracts Confidential: Ending Secret Deals in the Extractive Industries*, a report which challenges a variety of the common objections to transparency in extractive industry contracts. Examining government and private sector objections to contract disclosure, the report finds that, despite claims about competition and trade secrets, there are few legitimate reasons to conceal contract details.[59] In fact, this year, both Ghana and Liberia took promising steps toward requiring contract disclosure.[60]

Scope of EITI

Revenue Watch and other civil society organizations are concerned that the scope of the EITI – focusing purely on the extractive process – is too narrow to create the level of transparency that would really impact corruption in developing countries; for example, there are calls for significant infrastructure projects to be held to the same level of transparency as extractive projects.[61] The focus on purely financial costs – ignoring social and environmental costs of extractive activities – is felt by many civil society groups to undermine the EITI process, as well as its exclusion of other non-extractive natural resources.[62] EITI also does not address what the governments actually do with their oil-related revenue, nor does it require the same type of reconciliation to occur within governments as the revenue is distributed.

China’s impact

As a voluntary initiative, EITI relies heavily on international funding and encouragement/diplomatic pressure from the countries who import the resources. However, China’s interest in expanding its presence in Africa has potentially troubling implications for efforts to improve transparency and accountability.

The Export-Import Bank of China (China ExIm) has made some very large loans to Nigeria (for example, $1.6 billion for a Chinese oil project) and has not make the terms of the loan public, nor does it make any reporting demands on its clients. This not only undermines export credit rules aimed at keeping a level playing field, but could also hurt global efforts such as the EITI. For example, Angola, has managed to resist IMF pressure to make budgets more transparent partly because they have been able to get money from China ExIm with no strings attached.[63] Although currently the largest exporter of oil in Africa (due to the conflict-related reductions in Nigeria), Angola has continued to resist joining the EITI process, and instead calls itself an ‘observer’ of EITI, which is a non-existent category in the EITI protocol.

However, it appears the Chinese and other Asian countries like South Korea are having increasing difficulties in their relationships with some of their African partners, in particular with Nigeria. The frequent change of government and inability by the Nigerian government to manage projects is causing significant stress; so far only Angola has been immune from this problem, likely due to their relatively stable government.[64]

Voluntary nature of EITI

The EITI Board walks a challenging line between creating a validation process that is meaningful and reduces corruption, but is not so difficult that countries feel it is impossible or too difficult to remain committed to EITI. By mid-2010, most countries who have entered the process will have reached their deadline for validation, and it will be more clear if the EITI as is can be effective.

Meanwhile, there is significant difference of opinion among stakeholders and civil society over whether countries who do not participate in EITI should be penalized in some way. Many from the PWYP coalition feel that a mandatory approach is important. David Ugolor, President of the African Network for Environmental and Economic Justice, and a PWYP member from Nigeria, says "Global and mandatory measures are the only lasting and effective solution to this global problem. Voluntary processes do not guarantee that the EITI will be successful at the global level or at a country level, especially in places like Nigeria."[65]

Theoretically, mandatory payment disclosure would solve a number of problems, including: leveling the playing field between competitors, so that more transparent companies are not undercut by those who are less socially minded; eliminating concerns about confidentiality clauses; de-politicizing the issue of payment disclosure in countries with governments who are not committed to transparency; and eliminating the double standard between levels of transparency in the developed and developing worlds - (although many developed world countries have extractive industries, only Norway has embraced EITI for its internal extraction process).[66]

Returning to Klitgaard's corruption equation referenced in the introduction to this paper, mandatory disclosure, if in fact it were possible to universally implement it, would likely reduce global corruption to the extent that it would reduce two components of the equation: Discretion (since all companies and countries would operate with the same rules) and Monopoly (since greater openness would occur in bidding and other competitive situations).

However, even if there were general agreement on mandatory disclosure, it is not clear how it would be implemented. One of the challenges is that countries with significant natural resources are generally financially independent and thus cannot be easily controlled or 'punished' by the international community through withholding aid or loans.

Among extractive industry producer companies who are 'supporters', few have signed on to unilateral disclosure for every country in which they operate. The prevailing opinion is that the host countries must lead the process of implementation, and then the companies will follow. Thus it seems there are many obstacles to making EITI participation mandatory.

Other Initiatives

Despite the resistance to mandatory regulation, there are initiatives which, if passed, might support EITI and provide some measure of mandatory engagement. The Energy Security Through Transparency Act of 2009 (S. 1700) is legislation that was introduced in the U. S. Senate on September 23rd requiring companies that are registered with the U.S. Securities and Exchange Commission (SEC) to report how much they pay each government for access to their oil, gas and minerals.[67]

Interestingly, in many ways, this legislation resembles the original approach supported by Publish What You Pay prior to the creation of the EITI, which at the time was criticized around the issue of confidential contracts and the lack of coverage of state-owned extractive companies, However, when viewed in the current light and overall context of global initiatives, this may be exactly the right time for this type of legislation. As cited earlier, PWYP has done considerable research and issued an in-depth analysis looking at these contractual issues; as a result they have provided excellent arguments for making contract terms open and public. This will enable governments and civil society to apply greater pressure for laws and policies regarding openness.

The challenge of addressing the issue of involving state-owned oil companies is less clearly addressed; however, it has become clear that there is no one piece of legislation or initiative that can address all of the issues related to this very complex challenge of extractive industries and good governance. It seems best at this point to embrace the patchwork quilt of global efforts, which little by little will make it more and more painful for governments and EI companies to withhold information and steal money.

The final related initiative to mention here is The Natural Resources Charter. The idea behind this initiative is to look at the entire 'decision chain' that brings extractive resources from the ground to delivery. Ernesto Zedillo, the ex-President of Mexico, is heading this initiative with technical support from Nobel laureate Michael Spence. According to Paul Collier, the intention of this initiative is "to complement EITI in spelling out the entire decision chain by which natural assets can become a blessing instead of a curse."[68]

POLICY RECOMMENDATIONS

Clearly there are a diverse set of challenges facing any anti-corruption / good governance initiative, and EITI is not different. While EITI appears to have made a positive difference, moving many countries in a direction of more complete disclosure, yet as we've seen with Nigeria, it is difficult to understand exactly what role EITI is playing in those situations and where other influences had greater impact. Of even greater concern is the possibility that EITI may be undermining or diverting other more effective reform measures.

The recommendation of this paper is that the overall framework of EITI should be retained, but key aspects of it that are controlled by the EITI Board and Secretariat should be modified.

There are many stakeholders in the EITI process from whom changes in behavior and policy might be useful. Certainly this report documents how policy choices in Nigeria undermined the effectiveness of the initiative. While there are certainly policy improvements that could be made by many of the stakeholders in the international community, for purposes of this paper, it seems that constructive changes made by the EITI Board and Secretariat could most quickly address some of the areas that are currently undermining EITI and support the already existing efforts of others.

While these recommendations were a result of a thorough study of the implementation of EITI, they are reinforced by the in-depth interviews and research performed by Nicholas Shaxson, who is the first researcher funded entirely by independent sources (in his case, the Ford Foundation) to conduct such a detailed study on the background and results of a particular country's implementation of EITI, in particular focusing on the political and economic drivers of reform.[69] As a result, it is clear that the EITI Board / Secretariat could implement certain new steps that could be very helpful, and modify other current policies to improve outcomes or avoid negative incentives.

More Focus on Depth of Engagement

The EITI Secretariat seems more focused on quantitative results versus qualitative results: counting the number of countries and companies that are involved in the initiative, rather than determining if real change is occurring. This leads to embarrassing scenarios such as what occurred with Nigeria. The EITI Secretariat was so enamored of Nigeria's strong beginnings and so certain that these flowed directly from an authentic commitment to EITI, that they consistently pointed to Nigeria as a success story, even going so far as to hold an international EITI conference in Abuja for the purpose of highlighting NEITI successes; the conference was held in 2008, long after substantive activity on reform had ended.[70] To improve this depth of engagement, specific steps should be taken.

1) Focus the EITI Secretariat resources on countries most likely to be ready and willing to follow through on reform, and deeply engage in those countries in order to ensure that reform is happening and the steps are not just 'window dressing'.[71]

2) Provide technical support, but insist that countries with the means self-fund their domestic EITI programs and audits (Nigeria's initiative has been entirely funded from outside sources). This will help ensure real commitment.[72]

3) Once an accurate understanding has been achieved of the nature of reforms in the focused countries, statements issued should move away from being ultra-positive cheerleader approaches to being more focused on demonstrating real reform and the resulting impact on civil society. As one NEITI participant said, "Global EITI is held hostage by Nigeria – how can you criticize Nigeria when it is your flagship project?"[73]

4) Recognize that the conditions in individual countries varies greatly, and what may be needed to make EITI successful may be very different than the current approach. An international EITI consultant commented, "The reason Nigeria wanted such a broad-based audit are unlikely to be repeated elsewhere; every country has different problems. For example, in Latin America, most of the data is already public. In Trinidad you have a different problem; educating the public in a polarized political environment; in Peru, the issue is sub-national derivation."[74]

5) Recognize that the EITI process is frequently more of a political challenge than a technical challenge, and focus resources based on that understanding. The real challenge to

creating substantive change is convincing the political elite in extractive industries countries to embrace a process of transparency that will very likely reduce their ability to receive rents from that industry. In countries like Venezuela where the oil sector is state-owned – and therefore the payments and receipts are made to more or less the same entity (the government) – the political concerns related to disclosing sensitive information that might be used by the political opposition can override all arguments toward encouraging the initiative to be embraced.[75]

<u>Expansion of Audience for Information</u>

There are clearly many challenges associated with a foundational aspect of the EITI process – the role and responsibility of civil society to use the information to hold their governments accountable. This challenge can be addressed by both making it easier for civil society to engage, and by expanding the target audiences for the information.

1) Create an easy to understand index – Greater attention and engagement with civil society in the process is needed in order to help sustain the reforms in the long run. Otherwise it will always be held hostage to whatever political leader (like Obasanjo) who finds it advantageous to support reforms at one point, only to change strategies later. As Nigeria demonstrated, merely implementing a law does not mean there is the political will to enforce it. The sense of competition EITI tries to build in to the validation process is not providing enough motivation to get countries past the real challenges of the internal changes needed to support greater transparency. And the overall complexity of the EITI process makes it difficult for the civil societies of most developing countries to understand, let alone have the ability to discern whether their resources are being exploited by the extractors or stolen by a corrupt government or both.

Borrowing a concept from Global Integrity and Transparency International, the publication of an index number would quickly reflect important information, such as the percentage of fiscal revenue from each barrel of oil that accrues to the government.[76] Highlighting such a number as a part of the EITI process might be helpful toward re-engaging the media and civil society without requiring sophisticated financial knowledge. Also, TI and GI experience has shown that countries can be surprisingly competitive when they are ranked against each other, so this might encourage healthy competition across countries as they vie for demonstrating that their country is receiving a high percent of the value of its extractive resources.

2) Broaden Target Audience beyond Civil Society – Recognize that where broad civil society does not have the capacity to step into a key role in this process, there may be other factions who can put the information to very positive use. In Nigeria, the state and federal legislatures and ministries were particularly interested in the information, and utilized it to obtain a better understanding of the entire oil value chain and identifying where funds might be 'leaking'.[77] Taking the time to understand each country's dynamics will allow for better targeting of the appropriate audiences for the EITI message in each country.

<u>Expanded and More Diverse Secretariat</u>

In order to accomplish the recommendations above, the staffing and services provided by the secretariat will need to be significantly expanded. Funds for this purpose could be obtained by diverting those monies currently being sent directly to candidate countries (like Nigeria) to fund their initiatives (assuming the self-funding recommendation above was enforced). The expanded staffing should as much as possible include individuals from developing countries so that the power dynamic of developed/developing country can be eliminated as a potential barrier to progress.

CONCLUSION

When the initial draft of this paper was prepared in mid-2009, the overall outlook for the EITI seemed dim. Yet in just the past half year, efforts and initiatives from a number of different sources seem to have increased exponentially, so that now EITI may more properly be seen as one part of a much larger whole that is pushing the globe to good governance.

This hopeful sign may make it easier for the EITI International Board and Secretariat to accomplish the funding needed to staff so they can focus on creating sustainable, long term victories in the area of anti-corruption and good governance in extractive industries.

BIBLIOGRAPHY

Akinsanmi, Gboyega. "Nigeria: From Food Basket to Begging Bowl." *AllAfrica.com.* March 1, 2009. http://allafrica.com/stories/200903020206.html (accessed December 10, 2009).

Alexander, Karin, and Stefan Gilbert. *Oil and Governance Report: A Case Study of Chad, Angola, Gabon and Sao Tome & Principe.* Capetown: Institute for Democracy in South Africa, 2008.

Amnesty International. *Nigeria: Petroleum, Pollution and Poverty in the Niger Delta - Summary.* Research Report, London: Amnesty International, 2009.

Associated Press. "Africa opens Book on oil deals." *News24 Africa.* June 27, 2004. http://www.news24.com/News24/Africa/News/0,,2-11-1447_1549016,00.html (accessed December 3, 2009).

Beattie, Alan. "World Bank Advised to Pull out of Oil and Coal Financing." *EcoEarth.Info - Environmental Portal and Search Engine.* November 20, 2003. http://www.ecoearth.info/shared/reader/print.apx?linkid-27167 (accessed December 6, 2009).

Carson, Johnnie, interview by State Dept Spokesman Robert Wood. *Briefing regarding Secretary Clinton's Upcoming Africa trip* (July 30, 2009).

Collier, Paul. *The Bottom Billion: Why the Poorest Countries are Failing and What can be Done about it.* New York: Oxford University Press, 2007.

—. *The Natural Resource Charter and the EITI.* November 24, 2009. www.eiti.org/print/1304 (accessed December 10, 2009).

Doane, Deborah, and Alison Holder. "Why Corporate Social Responsibility is Failing Children." *CorporateResponsibility.org.* 2007. http://corporate-responsibility.org/wp/wp-content/uploads/2009/09/WhyCSRpagesHR.pdf (accessed December 16, 2009).

Easterly, William. *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good.* New York: Penguin Group, 2006.

EITI Board Minutes. *EITI.* April 2007. http://www.eiti.org/UserFiles/File/board/Minutes_of_the_2nd_EITI_Board_draft%204%20May_Final.pdf (accessed December 3, 2009).

EITI Newsletter. *EITI.* Aug 2009. http://www.eiti.org/files/EITI_Newsletter_2009-03.pdf (accessed December 1, 2009).

—. *EITI.* December Dec 2007. http://www.eiti.org/node/771 (accessed December 4, 2009).

EITI Norway. "EITI Norway." *EITI.* July 3, 2009. http://www.eiti.org/node/1092 (accessed December 16, 2009).

EITI Principles and Criteria. *EITI Principles and Criteria.* 2009. http://www.eiti.org/eiti/principles (accessed December 3, 2009).

EITI Validation. *EITI Validation.* 2009. http://www.eiti.org/validation (accessed December 1, 2009).

Gerth, Jeff. "US and Oil Companies Back Revised Effort on Disclosure." *New York Times, Business Section*, September 19, 2003: http://www.nytimes.com/2003/09/19/business/us-and-oil-companies-back-revised-effort-on-disclosure.html.

Gillies, Alexandra. "U4 Brief." *Reforming corruption out of Nigerian oil? Part two: Progress and prospects.* Apr 2009. http://www.cmi.no/publications/file/?3348=reforming-corruption-out-of-nigerian-oil-part-two (accessed December 3, 2009).

—. "U4 Brief." *Reforming Corruption out of Nigerian Oil? Part one: mapping corruption risks in oil sector governance.* Feb 2009. http://www.cmi.no/publications/file/3295-reforming-corruption-out-of-nigerian-oil-part-one.pdf (accessed December 3, 2009).

Global Integrity. *Global Integrity Report - Azerbaijan 2008.* 2009. http://report.globalintegrity.org/Azerbaijan/2008 (accessed December 1, 2009).

Goldwyn, David. "Drilling Down - A Civil Society Guide to Extractive Industry Revenues and the EITI." *Revenue Watch Institute.* May 26, 2008. http://www.revenuewatch.org/news/publications/drilling-down.php (accessed July 30, 2009).

Herrera, Bernardo Alvarez, interview by Mary Ella Keblusek. *Venezuelan Ambassador to the U.S.* (August 3, 2009).

Joyce, Katherine. *Sept 23 2009 Revenue Watch Conference on Contracts.* October 23, 2009. http://www.revenuewatch.org/news/102309.php (accessed December 7, 2009).

Karl, Terry Lynn. "Understanding the Resource Curse." In *Covering Oil: A Reporter's Guide to Energy and Development*, by Revenue Watch, 21-29. New York: Open Society Institute, 2005.

Klitgaard, Robert. *Controlling Corruption.* Los Angeles: University of California Press, 1988.

Moran, Theodore H. *How Multinational Investors Evade Developed Country Laws.* Working Paper Number 79, Washington DC: Center for Global Development, 2006.

Moss, Todd, and Sarah Rose. "China ExIm Bank and Africa: New Lending, New Challenges." *Eldis.org.* November 2006. http://www.eldis.org/vfile/upload/1/document/0708/DOC22802.pdf (accessed July 24, 2009).

NEITI. "NEITI ~ Audit of the Period 1999-2004." *Nigerian Extractive Industries Transparency Initiative.* 2006. http://www.neiti.org.ng/NEITI%20Final%20Audit%20Reports.htm (accessed October 5, 2009).

Ocheje, Paul D. "The Extractive Industries Transparency Initiative (EITI): Voluntary Codes of Conduct, Poverty and Accountability in Africa." *Journal for Sustainable Development in Africa*, 2006: 222-239.

Open The Books. 2009. www.openthebooks.org (accessed December 10, 2009).

Publish What You Pay - History. 2009. http://www.publishwhatyoupay.org/en/content/history (accessed December 6, 2009).

PWYP International. "PWYP communique issued at the 2008 PWYP Africa regional meeting." *PWYP Press Releases.* September 10, 2008. http://www.publishwhatyoupay.org/resources/pwyp-communique-issued-2008-pwyp-africa-regional-meeting-nigeria (accessed December 6, 2009).

Rainbow Insight. "Evaluating the EITI's Impact on the Transparency of Natural Resource Revenues." *Extractive Industries Transparency Initiative.* February 2, 2009. http://eitransparency.org/files/Rainbow%20Insight%20Report.pdf (accessed December 7, 2009).

Revenue Watch Institute. *Contracts Confidential: Ending Secret Deals in the Extractive Industries.* September 14, 2009. http://www.revenuewatch.org/news/publications/contracts-confidential.php (accessed December 7, 2009).

Rose-Ackerman, Susan. *Corruption and Government: Causes, Consequences and Reform.* New York: Cambridge University Press, 1999.

Shaxson, Nicholas. *Nigeria's Extractive Industries Transparency Initiative: Just a Glorious Audit?* Independent research report, London: Chatham House, 2009.

Stephan, Katherine. "Oil Companies and the International Market." In *Covering Oil: A Reporter's Guide to Energy and Development*, by Revenue Watch, 47-60. New York: Open Society Institute, 2005.

Stiglitz, Joseph. "Making Natural Resources into a Blessing rather than a Curse." In *Covering Oil: A Reporter's Guide to Energy and Development*, by Revenue Watch, 13-19. New York: Open Society Institute, 2005.

Transparency International. *TI Corruption Perception Index.* 2009. http://www.transparency.org/policy_research/surveys_indices/cpi.

Vines, Alex et al. "Thirst for African Oil: Asian National Oil Companies in Nigeria and Angola." *Chatham House.* August 2009. http://www.chathamhouse.org.uk/files/14524_r0809_africanoil.pdf (accessed December 4, 2009).

World Bank. *Extractive Industries and Sustainable Development.* Washington DC: The World Bank, 2005.

—. "Third Implementation Report of the Management Response to the Extractive Industries Review." *World Bank Extractive Industries Review Web Site.* February 2008. http://siteresources.worldbank.org/INTOGMC/Resources/Implementation_2007_Final.pdf (accessed December 6, 2009).

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[1] Klitgaard 1988, p. 75.
[2] Shaxson 2009, p. 1.
[3] Shaxson 2009, p. 1.
[4] Stiglitz 2005, p. 13.
[5] Karl 2005, p. 22.
[6] Karl 2005, p. 23.
[7] Collier 2007, p. 40.
[8] Collier 2007, pp. 40-41.
[9] Akinsanmi 2009.
[10] Collier 2007, pp. 39-40.
[11] Karl 2005, p. 24.
[12] Collier 2007, pp. 42-44.
[13] Ocheje 2006, p. 225.
[14] Karl 2005, p. 24.
[15] Amnesty International 2009 p. 2.
[16] Rose-Ackerman 1999, pp. 185-186.
[17] Moran 2006, p. 3.
[18] World Bank 2005, p. ix
[19] World Bank 2005, p. 12.
[20] Beattie 2003, p. 1.
[21] World Bank 2008, p. 4.
[22] Shaxson 2009, p. 1.
[23] Moran 2006, p. 11.
[24] Gerth 2003, p. 1.
[25] Stephan 2005, p. 57.
[26] EITI Principles and Criteria 2009.
[27] EITI Principles and Criteria 2009.
[28] Moran 2006, p. 11.
[29] Shaxson 2009, p. 3.
[30] Associated Press 2004.
[31] Gillies Apr 2009, p. 3.
[32] Ocheje 2006, p. 227.
[33] Ocheje 2006, pp. 227-228.
[34] Gillies Apr 2009, p. 3.

[35] Ocheje 2006, pp. 229-231.
[36] Ocheje 2006, pp. 230-232.
[37] Shaxson 2009, p. 21.
[38] Gillies Apr 2009, p. 3.
[39] EITI Board Minutes, April 2007, p. 6.
[40] EITI Newsletter, Dec 2007.
[41] EITI Validation, 2009.
[42] EITI Validation, 2009.
[43] Shaxson 2009, p. 15.
[44] Shaxson 2009, pp. 12-14.
[45] Shaxson 2009, pp. 17, 18, 22.
[46] Shaxson 2009, p. 15.
[47] Shaxson 2009, p. 13.
[48] Shaxson 2009, p. 24
[49] Shaxson 2009, p. vii.
[50] EITI Newsletter, Aug 2009, p. 2.
[51] EITI Newsletter, Aug 2009, p. 2.
[52] PWYP International 2008.
[53] Shaxson 2009, p. 25.
[54] Goldwyn 2008, pp. 88-91.
[55] Shaxson 2009, p. 28.
[56] Doane, et al. 2007, p. 8.
[57] PWYP International 2008.
[58] Shaxson 2009, p. 8.
[59] Revenue Watch Institute 2009.
[60] Joyce 2009.
[61] Moran 2006, p. 11.
[62] PWYP International 2008.
[63] Moss, et al. 2006, p. 3.
[64] Vines 2009, pp. 1-4.
[65] Doane, et al. 2007, p. 8.
[66] EITI Norway 2009.
[67] Open The Books 2009.
[68] Collier 2009.
[69] Shaxson 2009, p. vi.
[70] Shaxson 2009, p. 41.
[71] Shaxson 2009, p. 44.
[72] Shaxson 2009, p. 22.
[73] Shaxson 2009, p. 41.
[74] Shaxson 2009, p. ix.
[75] Herrera 2009.
[76] Shaxson 2009, p. 21.
[77] Shaxson 2009, p. ix.