Extractive Industries Transparency Initiative (EITI): Using a Global Public-Private Partnership to Facilitate Domestic Governance

---

Patrícia Galvão Ferreira

Table of Contents

Extractive Industries Transparency Initiative (EITI): Using a Global Public-Private Partnership to Facilitate Domestic Governance

Patrícia Galvão Ferreira•

Introduction

In 2003 a group of civil society organizations (CSOs), developed countries, resource-rich developing countries and transnational extractive corporations (TECs) & investors jointly created the Extractive Industries Transparency Initiative (EITI). EITI's main objective when it was first created was to tackle the intractable problem known as the "resource curse", by encouraging resource-rich but governance-poor developing countries such as Nigeria and Yemen to create domestic systems to improve transparency and social participation in their natural resource sectors. Only resource-rich developing countries were expected to implement EITI, while all other stakeholders – including developed countries – were expected to support the initiative and participate in compliance verification.

Basically a country implementing EITI shall require all extractive companies operating in their territory to disclose resource-related payments made to the government. The government shall disclose how much it has received from the companies. An independent body shall reconcile these financial figures and the government shall publish and disseminate the reconciliation report. This process needs necessarily to be coordinated and monitored by a national multistakeholder group with representatives from government, corporations and CSOs. Governments are encouraged to adopt further policies to increase transparency and accountability in the extractive sector, the disclosure

• Patricia Galvao Ferreira is the Nabuco Visiting Chair in Brazilian Studies at the Center for Latin American Studies at Stanford University, and Research Associate at the Institute of Studies on Labour and Society/IETS at Rio de Janeiro.

rules cited above being only a minimum requirement.

How can we best categorize this transnational public-private initiative in the global regulatory mechanisms field? EITI is clearly not an example of corporate social responsibility initiatives, because its primary objective is not to influence the behavior of extractive corporations, although it does so indirectly. Most say that EITI is an example of standard setting organization, responsible for establishing an emerging set of global transparency and social participation standards for countries to apply in their extractive sector. If this is the case EITI could be analyzed alongside international treaties such as the UN Convention Against Corruption (UNCAC). UNCAC sets anti-corruption standards that participating countries must incorporate in their domestic systems. Inter-governmental standard-setting treaties are however mandatory regulations that address global problems and to be implement worldwide. This is very different from EITI that was created to address the resource curse, a problem that affects a specific group of countries.

I argue that EITI is better understood as a global regulatory mechanism to encourage governance improvements in resource-rich but governance-poor developing countries. As such, EITI should be analyzed alongside other regulatory efforts to promote governance reform in developing countries such as bilateral and multilateral development assistance agreements. Yet, EITI's multistakeholder nature that includes the active participation of CSOs and corporations markedly differs from conventional state-to-state agreements to promote governance reform. How did such a global partnership to promote governance reform in the extractive sector in developing countries was created in the first place? And has the mission to promote governance reform in developing countries influenced EITI's institutional design?

To answer these questions this paper is structured as follows. Section one sets the context by briefly describing regulatory attempts to address the resource curse that preceded EITI. Section two argues that EITI's creation followed an organic process in which, faced with the very intractable problem of the "resource curse" in developing countries, CSOs, developed countries and TECs tried different regulatory strategies before converging on one idea. The idea was that a public-private-partnership that engaged resource-rich developing countries in the quest to improve the governance of their own domestic extractive systems was an important element in the global efforts to address the resource curse and to restore the legitimacy of resource extraction in poor countries. Section three argues that many of EITI's institutional features reflect efforts to avoid the acknowledged shortcomings of earlier regulatory attempts to promote governance reform in developing countries through bilateral and multilateral aid agreements. I conclude by discussing some of the implications of recognizing EITI as a regulatory mechanism primarily designed to promote governance reform.

1. Context

One of today's most important development conundrums is the "resource curse": many resource-rich developing countries are expected to end up with worse development indicators in the long run than their resource-deprived peers.[1] The accumulation of evidence on the crucial role of domestic governance systems in preventing countries from falling victim to this "curse" has led to increased concerns with rising exploitation of mineral, oil and gas resources in resource-rich but governance-poor countries.[2] Understanding how best to address this conundrum became a pressing agenda in development studies. The international community did not respond to the governance deficit in resource-rich countries - or to the governance deficit in any other developing country, for that matter - in a coherent and homogeneous way. There were two different trends occurring simultaneously in the 1980s and 1990s.

Leading Western CSOs, on the one hand, concentrated efforts on denouncing the complicit engagement of developed countries and their transnational corporations in governance-poor countries that consistently violated socio-economic rights or used

[1] For a series of articles explaining the resource curse thesis and proposing ways to overcome it, see Humphreys, Sachs & Stiglitz, 2007.

[2] A new body of literature has tried to answer why some resource-rich countries escape the resource curse, while others do not. There is a growing consensus in this literature, which is in fact an offshoot of the "governance matters for development" consensus in development studies, that what really determines if a country will or not fall prey to or escape the resource curse is the existence or not of a sound domestic governance system. Mehlum, Moene, & Torkik, 2006; Wantchekon & Jensen,2004; Humphreys, 2005.

resource revenues to finance never-ending violent conflicts. Their main focus was in promoting global regulatory mechanisms either to directly regulate corporate behavior (through private global mechanisms), or to "borrow" institutions from capital exporting countries (through extraterritorial regulations). An example of the former is the "OECD Guidelines for Multilateral Enterprises", whose voluntary standards aim to guide corporate behavior wherever they operate. An example of the latter is the *Foreign Corrupt Practices Act* (FCPA), whereby law enforcement institutions in the United States investigate, try and punish transnational corporations that bribe foreign officials. Most corporate social responsibility (CSR) initiatives and most corporate accountability initiatives in home-countries fall in these categories. Over time CSOs came to recognize the obstacles to the creation and the limitations of this type of global regulatory mechanism that bypassed host developing countries.

On the other hand, virtually all Western developed donors and international financial institutions (IFIs) embraced the idea (in the wake of the "governance matters" consensus) that these problems should be addressed primarily by improving governance systems in developing countries. To promote governance reform donors and IFIs privileged a specific type of global regulatory mechanism: bilateral and multilateral aid agreements. Yet, promoting governance improvements at the host country domestic level has proved elusive. Despite large investments in governance reform,[3] governance indicators in many developing countries have not shown noticeable improvements,[4] and the problems associated with the resource curse abounded. CSOs continued to collect and disseminate information on incessant cases of conflict, environmental degradation, human rights violations and gross corruption and mismanagement in resource-rich countries over the years. In the late 1990s this accumulated information and social pressure was leading to a looming legitimacy crisis in resource extraction in developing countries. Western capital exporting countries and their transnational extractive corporations (TECs) were disproportionately affected by this legitimacy threat, as compared to emerging economies.

[3] Trubek, 2001.
[4] Kaufmann, Kraay & Mastruzzi, 2009.

EITI was created in this context, when CSOs, Western developed countries and their TEC were all pressed to find ways to deal with the problems associated with the resource-curse. In order to conceive EITI as a conducive option, however, CSOs had to change their initial strategy of focusing on private regulatory mechanisms and extraterritorial regulations that bypassed host countries, while Western developed countries had to move beyond using bilateral and multilateral assistance agreements as regulatory mechanisms to promote governance reform. I explain how this change happened next.

2. The Strategy Changes Behind EITI

In 2002 key state and non-state actors – civil society organizations, transnational extractive corporations, capital-exporting developed countries, and resource-rich host countries - agreed to create EITI as a collective response to the resource-curse. Although each group of actors was driven by its own set of concerns, interests and values, their policy objectives would end up converging in the creation of EITI. Yet, we can consider CSOs as the main drivers of EITI's creation. CSOs gathered and disseminated information on the serious human and environmental consequences resulting from the regulatory gap in extractive activities in developing countries. Without CSOs unrelenting pressure developed countries and their corporations would probably not feel the need to consider regulatory options to deal with the problem that mainly affected societies in developing countries.

2.1. CSOs Original Strategy: Corporations as Regulatory Targets

In 1999 a CSO called Global Witness (GW) published a report to show how the MPLA-led Angolan government was diverting most of the oil revenues to military and personal use.[5] European and North American oil corporations had a massive presence in the Angolan oil sector. The goals of "A Crude Awakening" were to name and shame both the Angolan government and the Western corporations that were engaging in oil exploitation in Angola. In the beginning, however, GW primary strategy was not to influence the

[5] Global Witness, A Crude Awakening, 1999.

domestic governance system in Angola. GW's initial strategy had a strong focus on promoting industry-led corporate social responsibility initiatives.

The report claimed, for example, that by refusing to release information on revenues paid to exploit Angolan natural resources, major multinational oil companies were complicit in the mismanagement and embezzlement of oil revenues by the country's elites.[6] For GW the lack of governance in Angola and other countries which were either emerging from conflicts or were still in conflict, and where structures of government accountability and transparency were "at best fragile, and at worst non-existent," was the reason why corporations should take the lead.[7] According to the organization, in such cases corporations should demonstrate an extra level of transparency in such cases, "over and beyond that which companies are normally required to demonstrate in their home countries of operation."[8]

In other words, transnational corporations were being asked to fill the governance gap in developing countries by self-regulating. CSOs considered that they did not have much leverage to influence the behavior of host countries like Angola, so they tried to create global regulatory alternatives targeting Western corporations that were more vulnerable to social pressure. "A Crude Awakening" concluded with a public call on the oil companies operating in Angola to 'publish what you pay', evidencing the strong initial focus on directly influencing corporate behavior.[9] Global Witness asked corporations to set a benchmark for corporate transparency and accountability by publishing all the revenues paid to the Angolan government, as well as all the contracts signed with the Angolan government and the Angolan National Oil Company, Sonangol.

GW, which is based in the UK, exerted special pressure over extractive UK oil

[6] The report stated, e.g. "As the main generators of revenue to the government of Angola, the international oil industry and financial world must accept their complicity in the current situation. As such it is imperative that these companies change the way they conduct their affairs, creating new levels of transparency. The international oil industry and the finance companies that have provided oil backed loans, must play this leading role." Id.
[7] Global Witness, 1999.
[8] Id at 5.
[9] Id at 5.

companies to voluntarily disclose what they were paying to the Angolan Government. In 2001 British Petroleum (BP) announced that it would disclose production volumes and revenues paid to the Angolan government each year, and to demonstrate the commitment the company published the amount it paid the Angola government by way of signatory bonus in the year 1999. The Angolan government reacted harshly and threatened to terminate contracts and block deals with any corporation that disclosed information without previous governmental approval.[10] Based on this precedent oil corporations worldwide insisted in the position that they could not disclose payments unilaterally without risking to lose contracts to less transparent corporations. GW then decided to initiate a global campaign to press G8 countries, home to most of the major transnational extractive corporations, to create securities disclosure regulations requiring any corporation listed in their stock exchanges to publish what they paid to resource-rich governments.[11]

At this juncture a global movement against corruption was gaining momentum, and other organizations working on anti-corruption and development soon embraced the common cause. In June 2002, Global Witness partnered with CAFOD, Open Society Institute, Oxfam GB, Save the Children UK and Transparency International UK, to launch a worldwide 'Publish What You Pay' (PWYP) campaign.[12] PWYP campaign basically asked that any oil and mining corporations that sought to be listed on stock exchanges in G8 countries fulfill a condition: disclose all tax payments, royalties, license fees, and any revenues paid to governments of resource-rich countries where they operate. The new idea was to create enough pressure to force G8 countries to create a plurilateral mandatory initiative, thus leveling the playing field at least among Western corporations.

Although CSOs strategy shifted from pressing for corporate self-regulation to pressing Western developed countries to create extraterritorial regulations, the regulatory targets

[10] Shaxson, 2007.
[11] Global Witness, Press Release, 2002.
[12] Subsequently, other organizations such as Catholic Relief Services, Human Rights Watch, Partnership Africa Canada, Pax Christi Netherlands and Secours Catholique/CARITAS France, along with an increasing number of NGOs from developing countries, also joined the campaign. Eigen, 2006; "Publish What You Pay", online: <http://www.publishwhatyoupay.org>.

were still extractive corporations operating abroad. The objective was to increase transparency in the extractive sector in developing countries, but CSOs assumed that they did not have much direct leverage with host countries so they had to rely on external mechanisms. This would soon change.

2.2. Strategy Change: Host Countries as Regulatory Targets

Possibly because the UK oil corporations were feeling the brunt of the pressure at the time, UK Prime Minister Tony Blair proposed discussions on a G8 initiative to address the resource curse in developing countries during the meetings that preceded the 2002 World Summit on Sustainable Development in Johannesburg.[13] The idea was to create a G8 plurilateral treaty mandating corporations listed in G8 stock exchanges to disclose the financial payments they made to resource-rich countries. As G8 countries were concerned with the possibility that resource-rich countries would react by privileging secretive contracts with state-owned corporations based in emerging economies such as China and Brazil, they rejected the idea. Blair expanded discussions beyond G8, trying to explore the possibility of a global initiative that would ensure an international level playing field. Nevertheless, most developing countries, especially emerging economies, were absolutely against the idea of a global treaty on this issue.

CSOs continued pressing the US and UK to lead the way by unilaterally establishing extraterritorial securities disclosure regulations, and pressing other G8 or OECD countries to follow behind, as they did for example with foreign bribes, but the corporate lobby pressed against this idea. At this point key oil and mining corporate entrepreneurs became convinced that only an international initiative that ensured the participation of host-state governments would be able to ensure a level playing field.[14] CSOs also recognized the obstacles impeding mandatory disclosures in capital-rich countries at that time, and felt that it was worth trying to bring host countries on-board. With support from

---

[13] Williams, 2004. Alessandra Gillies mentions that UK oil companies were also highly criticized for their involvement in the construction of the Baku-Tbilisi-Ceylan pipeline to allow oil exports from Azerbaijan. Gillies argues, however, that the UK government was also more receptive to the idea of leading the initiative because of its unusual close relationship with transparency and development CSOs. Gillies, 2010.
[14] Williams, 2004.

key CSOs and corporations, Blair then explored an alternative idea. If they could convince host countries to voluntarily commit to transparency, then corporations would be able to safely disclose their financial flows. There would be a level playing field, since all corporations operating in that host country – including from emerging economies such as China - would also be required to disclose.

During exploratory discussions a group of resource-rich countries accepted the idea not only to require corporate disclosure, but also to voluntarily disclose the revenues they received from corporations. The receptiveness of resource-rich countries was eventful, because it would totally change the primary regulatory target of the new initiative. Essentially, the new idea shifted the bulk of the disclosure responsibility from transnational corporations and home countries, to host countries themselves. Instead of targeting corporate behavior directly (while promoting transparency in host countries only indirectly), the new model would directly target host country behavior.

The focus on developing countries as regulatory targets and the potential level playing field may help to explain why the new proposal had the full support of Western developed countries and their extractive corporations. Early EITI supporters included all the G 7 members (Canada, France, Italy, Japan, Germany, USA, UK), as well as Australia, Belgium, Denmark, Finland, Netherlands, Norway, Spain, Sweden, Switzerland, and Qatar. From the G8, only Russia rejected the initiative. A significant number of Western extractive corporations also supported EITI when it was first launched. Among others, the supporters included: Anglo-American, Areva, BG group, BHP Billiton, BP, ChevronTexaco, ConocoPhillips, DeBeers, ExxonMobil, Newmont Mining, NNPC, Repsol YPF, Rio Tinto, Shell, SOCAR, Statoil, Total. The focus on improving how host countries behaved when managing their natural resources also brought multilateral agencies such as the World Bank and IMF to support the initiative.

For some EITI offered a low-cost alternative for Western developed countries to deflect criticisms of complicity by their corporations with the resource curse. The same with the World Bank, that in 2002 was receiving intense criticism for its continuous support for extractive operations as engines of developing even in governance-poor countries. This new initiative would therefore help to restore the legitimacy of oil and mining activities in developing countries.[15] There is ground to believe that self-interest helps to explain why EITI had the support of Western players, although it has been recognized that the emergence of new regulations always depend on a convergence of interests and values. Ideas about the importance of transparency and good governance for development, and the limitations of promoting governance through traditional bilateral and multilateral agreements have also played a part. How about CSOs, why did they endorse the new idea?

Similarly, besides being moved by values and ideas, there is ground to believe that CSOs were also moved by self-interest. The new proposal being a hybrid initiative, a public-private partnership, proved to be a crucial shift. CSOs and corporations would now sit in the same table as developed countries and resource-rich developing countries to jointly discuss the governance and the implementation of the transparency standards for participating countries. Besides, the new proposal required host countries to create national multi-stakeholder groups with civil society, corporations and government members to implement the initiative at the domestic level. A hybrid design would give international and national CSOS an unprecedented measure of leverage with governments in resource-rich countries. This may explain why CSOs also gave full support to EITI.

There is no doubt that all of these strategy changes and factors help to explain the broad acceptance of EITI among Western states and corporations and CSOs. The most puzzling question is why resource-rich developing countries would agree to participate in EITI. I turn to this next.

2.3. Developing Countries' Strategies

By all accounts the most striking feature of EITI is the high number of resource-rich and governance-poor developing countries that over time have decided to implement the voluntary initiative. It took a while for most developing countries to consider participation, but many of them have decided to join. From the list of Least Developed

[15] Gavin & Maconachie, 2009; Gillies, 2010.

Countries (LDCs) that have significant oil or mineral wealth,[16] for example, seventeen out of twenty-one countries are either candidate,[17] compliant,[18] or participating countries that are temporarily suspended due to political upheaval.[19] All of these countries are at great risk of falling prey to the resource curse. A significant number of other resource-rich countries with acute governance problems, which are in different stages of development, have also committed to EITI.[20]

Many explanations have been proposed as to why resource-rich developing countries were willing to sign into EITI. All of the proposed explanations are linked in some way to the "governance matters" movement. Some scholars argue that signing EITI would be a relatively east way for host-countries to send a signal to external audiences that they are committed to strengthening their governance systems in order to combat corruption and manage investments wisely, thus helping them to attract more FDI. A similar argument proposes that participating in EITI reduces the political risk often associated with poor developing countries. Similarly, showing signs of commitment to better governance may increase aid flows.[21] EITI transparency standards were not expected to provoke significant political costs. Even the requirement to create national multistakeholder groups to oversee the initiative was not considered overly dangerous for national elites in most developing countries, perhaps because they considered that it could remain

[16] Least Developed Countries Report 2011.
[17] Afghanistan, Chad, Guinea, Sao Tome and Prince. See EITI website at http://eiti.org/countries. Candidate countries are those that meet four sign-up criteria but have yet to go through the external "validation" process that assesses whether EITI standards have been complied with. After validation countries are declared "compliant', but need to undergo new validations periodically to maintain this status.
[18] Ghana, Liberia, Mali, Mauritania, Mozambique, Niger, Tanzania, Timor Leste, Yemen and Zambia are compliant countries. Id.
[19] Central African Republic, DRC, and Sierra Leone. The only resource-rich LDCs that do not participate in EITI are Angola, Equatorial Guinea, Zimbabwe and Sudan. Ibid.
[20] Burkina Faso, Nigeria, Azerbaijan, Kyrgyz Republic, Mongolia, Albania, , Cameroon, Cote Ivoire, Gabon, Guatemala, Indonesia, Peru, Iraq, Kazakhstan, Madagascar, Republic of Congo, Togo , Guatemala, etc. Ibid.
[21] Several scholars argue that a reputation for weak governance is a key obstacle preventing poor developing countries from attracting more FDI. Better governance systems would also improve the flows of aid in some cases. Paul Collier argues that even when developing countries improve invest in improving governance for example by strengthening property rights and contract laws, it takes a long while and strong marketing to change perception of investors. Any chance to show commitment to good governance is prized. Collier, 2007. See also Moran, Graham, & Blomstrom, 2001.

superficial. Finally, the initiative is voluntary and they could always withdraw, although with some reputational cost. The benefits outweighed the costs.

There is some evidence that this type of self-interested motivation can explain in large measure the adherence of key resource-rich countries that first joined EITI, such as Azerbaijan. Peter Eigen, who was actively involved in the EITI negotiations, noted a similar motivation in the case of Nigeria:

> A Nigerian minister, recently commenting for the first time on her country's acquiring an attractive credit rating, attributed a sovereign debt rating in substantial part to the reputational effect of its energetic application of EITI to uncover, for public scrutiny, the previously hidden fiscal flows of the oil and gas industry.[22]

Yet, only four research-rich countries – Nigeria, Azerbaijan, Ghana and the Kyrgyz Republic - volunteered to pilot the initiative as implementing countries when it was first officially launched in 2003. Three out of the four pilot countries were experiencing serious reputational problems associated with (Nigeria, Kyrgyz Republic and Azerbaijan). There is however evidence that some resource-rich countries such as Timor Leste and Liberia, which decided to join EITI later, right after undergoing fundamental political changes (end of a civil war and new independence), had a different motivation. When countries are in a critical junctures progressive political actors at the national level may see EITI as an instrument to lock in governance improvements by linking it to an external institution. This institutionalization of progressive policies would modify internal power balances, making it easier to fight internal resistance to changes and therefore to consolidate the transition to democratic systems.

Still, until 2005, despite strong support by G7 countries, IFIs and CSOs, only eight developing countries were implementing EITI.[23] The year 2006 marked a key moment for the initiative, since the low uptake by regulatory targets was threatening its credibility as a viable regulatory option. That year EITI's members commissioned an International

---

[22] Eigen, 2006.

[23] Virginia Haufler argues that the main obstacles were extractive corporations' concerns with competition (since emerging economies refused to enter the initiative), and the initial reluctance of many resource-rich countries to commit to information disclosure. Haufler, 2010, at 65.

Advisory Group (IAG) with the following tasks: to better understand and communicate EITI's incentives for different stakeholders; to discuss indicators to evaluate how the countries that committed to implement EITI were performing; and to suggest management and structural arrangements to facilitate EITI achieving its objectives.

IAG final report argued that developing countries joining EITI could expect many potential direct and indirect incentives, as described in table 1:[24]

Area	Direct Incentive	Indirect Incentive
Economic	- Improved tax collection from extractive corporations - Improved creditworthiness for sovereign debt ratings - Lower levels of corruption, less waste, more economic activity	- More stable and attractive investment environment; - Increased economic growth - More access to aid - More access to private capital; - Increased tax revenues from non-extractives sector
Governance	- Greater accountability - Stronger management of public finances - Respect for the rule of law and accountability	- Reduced risk of conflict - Less corruption; - Greater accountability - Improved public confidence in government; - Improved public probity
Development	- Increased investment in human development; - Improved employment levels and working conditions	- Poverty reduction
Reputation management	- Seen as "leaders" - Greater knowledge leading to more accurate expectations	- More trust in and respect for public institutions - Greater political integrity

At the same time, the World Bank and the IMF started to include participation in EITI as a condition for countries to receive the benefits from the Heavily Indebted Poor Country (HIPC) initiative, blurring the lines between incentives and conditionalities. Countries like Cameroon, Chad, Congo-Brazzaville, DRC and Sierra Leone arguably acceded to

[24] EITI International Advisory Group Report, 2006.

EITI not voluntarily, but under the HIPC conditions.[25] Other countries such as Iraq and Afghanistan joined EITI during foreign intervention, reinforcing accusations that the initiative was just one more example of top down measures by Western developed donors to impose governance models to the global south.[26]All other countries, however, seem to have been lured either by the desire to improve their reputation and attract more investment or aid, or to lock in minimum governance standards after a critical juncture. Even for the ones that adhered to EITI voluntarily it is hard to know which were genuinely invested in the idea that governance matters (logic of appropriateness),[27] and which were in fact only formally committing to the discourse in exchange for expected benefits (logic of consequences).

Whatever the reasons, the participation of resource-rich countries in the initiative grew from eight in 2005 to 35 in 2011.[28] Most resource-rich but poor developing countries, however, constantly commit to improve their domestic governance systems when they enter into development assistance agreements with bilateral and multilateral agencies. Could EITI become just one more example of largely failed attempts to promote governance reform in the global south? I turn to this question next.

3. Addressing the Shortcomings of Conventional Mechanisms

Based on the strategies of the private and public actors that created EITI, it is possible to conclude that the initiative was designed to create conditions for successful governance reforms in resource-rich but governance-poor host countries, complementing other

[25] Gillies & Heuty, 2011.
[26] Although I could not find any study indicating that accepting EITI was an imposition from USA to Iraq and Afghanistan, it seems intuitive that these countries did not have real autonomy to decide while under occupation.
[27] International relations scholars argue that when domestic actors become convinced that certain values promoted by the international community are worth pursuing, and they therefore accept to adopt and comply with international norms, they are acting under the "logic of appropriateness". When, on the other hand, global norms alter countries' calculations of interests, leading domestic actors to believe that it is worth behaving in a certain way to obtain benefits from the international community or other countries, they are acting according to" a "logic of consequences". March and Olsen, 1989; Checkel, 1997; Finnemore, 1996; Katzenstein, 1996). Moravcsik "1995; Cortell and Davis, 1996.
[28] See EITI, *Extractive Industries Transparency Initiative,* online: EITI <http://eiti.org/>.

initiatives with similar objetives. EITI's official documents confirm this argument. The 2005 EITI Sourcebook, for example, stated:

> From its inception, the EITI has enjoyed wide international support but the focus for the initiative is at the national level. […] Benefits for implementing countries are mainly realised as part of, or as an entry point to, broader efforts to improve governance".[29]

In 2006 EITI's International Advisory Group reinforced this understanding of the role that EITI was expected to play:

> […] EITI is best implemented as a key part of a broader reform. It is a step towards better governance – often the first step – and can support wider improvements in transparency and accountability within an implementing country. The benefits that come with EITI should therefore be viewed in this context.[30]

If EITI is part of a broader category of regulatory mechanisms intended to promote or facilitate governance reform in foreign countries, how does this initiative compare to other global mechanisms in this same category? I argue that EITI's institutional design took into account many of the existing critiques to the most conventional global mechanisms used to promote governance reform: bilateral and multilateral development assistance agreements. In this section I support this argument by briefly discussing how four institutional features of EITI can be associated to mainstream critiques found in the literature investigating the general failure of attempts to promote governance reform in developing countries.

To be sure, it is beyond the scope of this paper to analyze how these institutional features are performing in practice. The argument is that EITI proponents were concerned with limitations of earlier types of regulation to promote governance reform, and they tried to create institutional features that they assumed would minimize the problems. Broadly speaking, these critiques are the lack of legitimacy & ownership of reforms by recipient countries, attempts to transplant one-size-fits-all models, top-down approaches by

[29] EITI Source Book, at 5.
[30] EITI International Secretariat, EITI Rules, 2011 Edition.

developed countries, and lack of social participation in governance reform processes at national level.

3.1. Enhancing Ownership and Legitimacy

Analyses of failed attempts by the World Bank, International Monetary Fund and bilateral development agencies to use aid or loan conditionality as a tool to promote governance reform for development have suggested that agreed-upon objectives with host-countries and more control by them are essential features if the prospects of successful reform are to improve. Governance changes achieved primarily through coercive conditionality have mostly proved unsustainable, or have often remained formal yet empty reforms.[31] For IFIs and bilateral aid agencies from capital exporting countries, the task of promoting or encouraging governance reform is complicated by the strong legacy of suspicion and resistance from developing countries to what they see as "neocolonialism" by the rich and powerful countries towards the poorest ones. There is a strong sense among many developing countries that IFIs and even some United Nations agencies are imposing their views and agenda top-down on developing nations, when not promoting the self-interest of powerful developed countries and their national interest groups.[32]

In the 1990s, development agencies provided significant amounts of capital in loans, guarantees for private investment and aid in order to support the growth of the extractive sectors in resource-rich developing countries. These actions sought to make natural resource wealth serve as a much needed engine for development. As information on the links between governance and the resource curse became increasingly available, so did information on the failed efforts by external actors to promote governance reform in resource-rich countries. The World Bank's financial and political support for oil exploitation in Chad to construct the Chad-Cameroon pipeline is emblematic. The Chad-Cameroon Petroleum Development and Pipeline Project became famous worldwide not

[31] Santiso 2004. Pritchet, Woolcock & Andrews, 2010.
[32] There is a solid body of critical theories of the global neoliberal economic system that support this perception by developing countries. E.g. Hardt & Negri, 2000; Amin, 2005; Arrighi, 2005.

only because it was the largest single private sector investment in Sub-Saharan Africa, but also because of the utter failure of the much hailed mechanisms that the World Bank had promoted to improve governance in the oil sector in Chad to avoid the resource curse.[33] One of the main conclusions was that the series of incentives and disincentives the World Bank put in place were undermined by a sheer lack of ownership by the Chad government.

When EITI was created a high degree of legitimacy and ownership among host countries was considered a condition for this new institution to avoid the same problems faced by earlier mechanisms to promote governance reform. "Country ownership" was a key element of the discussions on aid effectiveness that were taking place at the time, discussions that would lead to the Paris Declaration in 2005.[34] Although EITI was first sponsored by the UK's then Prime Minister, Tony Blair, and was quickly supported by G7 countries and IFIs, since its inception EITI proponents tried to link the initiative to objectives dear to resource-rich host countries such as improved access to FDI and aid, but also to give these countries more control over the initiative. The objective was to increase the chances that they would be truly committed to the initiative's objectives.

The perceived need to overcome the lack of ownership and legitimacy among host countries explains many of EITI's features. It explains its voluntary nature, its governance structure and the initially limited reach of its disclosure requirements. For some, the voluntary nature of EITI is a major weakness, and without clear and strong enforcement mechanisms the initiative runs the serious risk of being merely window-dressing.[35] There are recurrent calls for EITI to become a mandatory initiative.[36] This voluntary nature, however, was crucial to ensuring a higher acceptance and commitment by resource-rich countries wary of externally imposed mandatory initiatives. Since

[33] Pegg, 2009.
[34] Boot, 2011.
[35] Dilan Olcer argues that disclosing information has relatively very few costs, and yet EITI participants are disclosing inconsistent and poor quality information. Having a system that involves real enforcement would be much more difficult to achieve and therefore EITI may remain a system of "toothless transparency without full accountability." Olcer, 2009. See also OECD Working Paper Number No 276 at 22.
[36] See, e.g., Oxfam International, 2009.

ensuring ownership was such an important goal, the tradeoff between "bite" and legitimacy among host countries was a key consideration.

Framers of the EITI, seeking to increase ownership and commitment by national leaders to implement reforms, believed they could do so, in part, by giving more control and direct participation to resource-rich host countries in the design and implementation of the global initiative. Resource-rich host countries did not actively participate in the agenda-setting process that led to EITI's creation. Since the first international discussion of EITI in 2002, however, a few resource-rich host countries such as Nigeria and Azerbaijan have assumed an extremely active role in promoting the nascent initiative and in the negotiations that defined the standards and the governing structure of EITI. During the 2003 EITI Conference, for example, the representative of Azerbaijan stated:

> […] Azerbaijan, from the very beginning expressed its support for the initiative of transparency in extractive industries. […] We will promote this initiative inside our country and if it is necessary, we are ready to play an active part in promotion [sic] it outside our borders.[37]

EITI is governed by a multi-stakeholder Board that includes five representatives from host countries, working along with three representatives from supporting countries, five representatives from civil society organizations, and six representatives from extractive corporations and investor organizations.[38] This governance design was to ensure that host countries would have an active role in the discussion of the initiatives' objectives and standards, influencing any new directions it may take.

It is hard to assess based only in anecdotal evidence whether EITI members truly have more ownership of governance reforms in the extractive sector than they would have in governance reform programs promoted by conventional aid agreements. Compliance with EITI minimal standards have been consistent so far, but do not represent a real test for the commitment of developing countries, because they do not threaten the political survival and control by ruling elites. One interesting object for empirical research would be to compare countries that enter into development assistance reform programs, some being

[37] Azerbaijan government, Media Release, 2003.
[38] EITI website, online: <http://eiti.org/>.

part of EITI, others not, to see whether there was any difference not only in minimal levels of transparency and participation, but also whether there was any further governance improvement in the extractive sector and beyond.

Another institutional feature of EITI reflected criticisms that external actors were always attempting to transplant ready-made governance models designed outside, without attention to local context. I turn to the proposed institutional feature to avoid transplants next.

3.2. Avoiding One-Size-Fits-All Approach

It has been increasingly recognized that the idea of transplanting governance best practices from one country to different policy environments has proved to be no more than donors wishful thinking. A solid and growing body of literature shows that there is no one-size-fits-all governance formula that can be applied to all governance-poor developing countries.[39] Developing countries have inherited and have further developed dysfunctional governance systems over a long period of time. Their historical and present political economy circumstances and governance needs differ a great deal among themselves and even more when compared to developed countries. Even among developed countries themselves, there is a great variety of governance models that were able to successfully address similar problems, in different contexts. This means that each country needs to find its unique governance "best fit". Even when inspired by best practices from outside, local governance models may become very different after interacting with local realities.

There are many explanations as to why external actors are most often incapable of identifying effective governance models that could work in unique local contexts. They do not have enough information to understand which are the best governance mechanisms to deal with the specific problems in each country. External actors are also not well placed to quickly identify whether one attempted governance model proves

[39] Critics of one-size-fits-all governance models include, among others, William Easterly, 2006 and 2009; Dambisa Moyo, 2009; Abhijit V. Banerjee & Esther Duflo, 2011; Michael Woolcock, Lant Pritchett & Matt Andrews, 2012.

inefficient or provokes deleterious unintended consequences on the ground. Local actors are the ones with access to information on which potential governance mechanisms may best serve a desired function taking local circumstances into account, and to provide swift feedback if the experiment proves counterproductive.

Bilateral and multilateral agencies have already recognized the failure of the transplant idea and the need to pay attention to local context and to work with local actors. In practice, however, many governance reform programs continue to commit the same mistake. EITI was designed taking this criticism into account. The initiative sets general governance standards of transparency and participation for the extractive sector, but it leaves a considerable degree of flexibility for national multistakeholder committees to devise national plans that reflect their local priorities and the realities on the ground. While EITI maintains a particular focus for minimal reforms – disclosure and independent auditing of revenues flows from companies to governments - it does not dictate the way in which the overall problem of the responsible management of natural resources should be addressed. Instead, it seeks to create favorable conditions for different actors to debate and to devise the most effective approaches for the particular problem at hand, given the circumstances of each particular country.

Therefore, national plans for governance reforms in the extractive sector are expected to vary from country to country. Anecdotal evidence from EITI's implementation over the years illustrates this approach's potential. Liberia was one of the first countries to commit to EITI in 2006, and one of the first to be ruled compliant under the initiative in 2009. After ensuring the implementation of EITI minimal standards in the mining sector, the national multistakeholder body, the Liberian Extractive Industries Transparency Initiative (LEITI), extended the requirements to the forestry and rubber industries, which were not required under the initiative. The country also decided to incorporate the standards under Liberia's national laws.

Peru offers another example. Peru is a federation with a decentralized tax system. Sub-national governments in mining provinces receive tax revenues directly from mining companies and also receive transfers of mining revenues from the central government.

The national multistakeholder group in Peru decided that in their country it was as important to disclose the revenue flows to the provinces, as was to disclose the revenue flows from corporations to the central government's budgets. Peru is now experimenting with a decentralized version of EITI, by creating sub-national multistakeholder groups to oversee the management of mining revenues at provincial level.

The risk of this flexible approach is that some countries will limit their compliance with the very basic general standards, without truly committing to greater transparency and accountability. This is the case with Azerbaijan, one of the early EITI supporters, which only complies with EITI standards to disclose the revenues flows from oil corporations to the central government. Despite this beam of light, Azerbaijan's natural resources sector remains extremely opaque, and the government is accused of becoming ever more authoritarian and corrupt. It is difficult to assess whether cases such as Liberia and Peru are true evidence of this approach's potential, or whether they are evidence of committed leadership. President Ellen Sirleaf, for example, has been a strong advocate for transparency in the management of natural resources. It is also complicated to evaluate whether some of the positive results of EITI are due to this room for flexibility, or due to other of the initiative's features, the rich pool of market incentives, peer learning and peer pressure associated with public-private partnerships, which I address next.

3.3. The Strength of a Public-Private Partnership

With growing evidence that massive financial investments in governance reform in the last decades have generated poor practical results, many development scholars have become very skeptical about the capacity of external actors to influence domestic governance systems in developing countries. There is a general view that it is not possible for external actors to promote sound governance mechanisms in a foreign developing country when its political institutions have become highly dysfunctional and captured by patrimonial elites. According to this critique, outsiders have no real leverage in these circumstances. Not even military intervention can fix highly dysfunctional domestic governance systems, on the contrary, it may complicate the problem, as the cases of Iraq and Afghanistan made clear. Often these countries are trapped in a web of bad institutions that was inherited and reinforced over the years and it became so complex that outsiders have no possibility to fully understand how the knots could be disentangled. Easterly, for example, argues that reforms, if possible at all, must come from inside.[40]

For a group of scholars, however, it is possible for outsiders to promote change at the margins, although even marginal changes often require significant efforts and a broad coalition that include local actors. For Walter Mattli and Ngaire Woods, successful regulatory change, whatever change this may be, requires "sustained support of various 'entrepreneurs' offering technical expertise, financial resources, and an organizational platform if it is to succeed."[41] Because elite motivation is complex, even when institutions are captured there are opportunities to open spaces where many different international and local actors can interact and try to implement governance changes, even if gradually. Conventional bilateral and multilteral aid agreements for governance reform, however, are not very suitable to facilitate this kind of coalitions.

Conventional governance reform mechanisms are state oriented, and as previously said they are often perceived by developing countries as imposed on them or highly influenced by powerful developed countries. The participation of private actors such as CSOs and companies in official development assistance projects is external and often marginal. Being a transnational PPP designed to influence domestic governance systems in host countries, EITI diverges from these conventional global regulatory approaches to governance reform.

Public private partnerships (PPP) such as EITI enable the collaboration among a diversified pool of stakeholders in a way that favors information sharing and learning,[42]

---

[40] Easterly, 2009; Banerjee and Duflo, 2011; Acemoglu & Robinson, 2012.
[41] Mattli and Woods use the term "norm entrepreneurs" to refer to public and private actors pursuing global regulation. For them entrepreneurs can be public officials, non-governmental groups or private-sector actors". Throughout this dissertation I have been using the term public and private actors to refer to the same individuals or groups they call entrepreneurs. Mattli & Woods, 2009 at 11.
[42] Abbott & Snidal, 2009.

allows the leverage of complementary expertise and resources,[43] and reduce costs of monitoring and enforcement.[44] EITI is horizontal and includes the active participation of private actors in all stages of the regulatory process. The idea behind EITI was that a by bringing together host-countries, home-countries, extractive corporations and civil society organizations, and by leveraging a significant pool of incentives, checks and balances, would be more effective than conventional global regulatory initiatives to gradually promote governance reform.

Finally, EITI has included as one of its sign-up criteria and minimal requirements the participation of CSOs in the multistakeholder groups that design and oversee the implementation of the national plans. By institutionalizing social participation at the local level EITI proponents were addressing one more shortcoming associated with earlier governance reform attempts.

3.4. Social Participation and Governance

A fourth institutional feature of EITI is the participation of private stakeholders (especially civil society organizations) in the design and implementation of public regulations and policies, to potentially enhance the chances of successful governance reform.[45] In the 1990s, social scientists came to consider civil society as a key agent for promoting democracy and good governance.[46] Supporting the development of an

[43] Brinkerhoff & Brinkerhoff, 2011; Aaronson, 2011 at 52.
[44] Abbott & Snidal, 2009.
[45] This assumption was part of a broader movement considering direct social participation as key to ensure democratization and good governance. In the 1990s a series of geopolitical events helped to bring civil society to the forefront of governance debates. A wave of democratic transitions in Latin American and Eastern Europe, governments' retreat from traditional forms of regulation in the wake of liberalization, privatization and other market reforms, and facilitation of opportunities for connecting and association caused by the information revolution, all contributed to a marked increase of civil society participation in governance mechanisms. In developed countries, the increasing complexity of social life has justified calls for new, more effective forms of governance where norm making and norm implementation are decentralized and where there is more experimentation and diversity in the forms of regulation. Private actors, including corporate organizations and civil society organizations, acquired independent representation in "new governance" processes. Trubek and Trubek, 2006.
[46]. The United Nations Development Program (UNDP), for example, argues that
"[A] viable, strong and informed civil society is central to good governance … and should be [an] effective partner in the process of development." United Nations Development Program, 1997) at 11.

informed and strong civil society, and promoting opportunities to participate in governance mechanisms became an essential part of promoting favorable conditions for successful governance reforms for development. The idea was to improve the quality of governance by allowing citizens to directly engage with bureaucrats and politicians in a more "informed, organized, constructive and systematic manner, thus increasing the chances of effective positive change".[47] Direct social participation would also serve to empower citizens groups.[48]

Drawing from these assumptions, one of the main features of EITI is the requirement that members of civil society organizations participate directly in the process of monitoring and validating revenue flows from corporations to governments. Some EITI supporters find the initiative promising due to its capacity to "create a feedback loop between the government and the governed, acting as a counterweight to corruption."[49] In this way, EITI's proponents emphasize how the initiative directly provides a voice for and improves participation of actors previously left outside the political processes in resource-rich developing countries. This participation officially sanctioned by the state is expected to enable civil society organizations to attain a measure of political status that allows them to dialogue with governments from a stronger political platform, altering the power relationship and the dynamics of domestic political processes.[50] The hypothesis is that civil society organizations can potentially use the leverage and knowledge acquired in these processes to exert more effective political pressure in other areas as well.

There are many open questions in the literature on how effective social participation is in ensuring expected positive outcomes in development. Besides many question whether

---

[47] McGee & Gaventa, *2010* at 7, citing Carmen Malena, Reiner Forster & Janmejay Singh "Social Accountability: An Introduction to the Concept and Emerging Practice" The World Bank, Social Development Paper No 76 (2004).
[48] McGee & Gaventa, *2010*.
[49] Aaronson, 2011.
[50] For a similar argument on the potential of international institutions to serve as entry points to destabilize dysfunctional governance paths in host countries, in that case the Interamerican Commission and the Interamerican Court on Human Rights from the Organization of American States, see Abramovich, 2009. He describes how the mechanisms of the Interamerican Human Rights System served to empower civil society organizations and facilitate governance reform to improve respect for human rights in Latin American countries that had gone through long dictatorship periods.

requiring and expecting social participation is realistic in the case of many EITI target countries, since CSOs in these countries tend to be either nonexistent, or not independent, or extremely weak and therefore incapable of effective participation.[51] This criticism is misguided for two reasons. First, this is a chicken and egg problem. It is true that in many resource-rich countries civil society is still embryonic and states pose a long series of obstacles to their effective participation. Civil society may be weak due to a long history of dysfunctional governance and repressive authoritarianism, fueled or not by rent-seeking. Civil society may not have been able to develop because all political spaces were and still remain closed. In this case EITI and other complementary measures to strengthen civil society are designed precisely to counteract this lack of political space. Initially weak groups that are invited to participate could be enabled to build their capacity over time, in a process that is sanctioned by the host state, even if this sanction is initially not sincere.

There is in fact anecdotal evidence that civil society organizations do exist in several of resource-rich but governance-poor countries, and, if strengthened, may prove key to facilitating processes of domestic governance reform. If the assumption that social participation in governance processes increases the chance of successful reform is correct, the EITI process could prove a significant instrument for some of the resource-rich countries that are still in transition, or that are still consolidating their democracies, but that already have a small but growing body of civil society organizations.

Civil society organizations from Niger, for example, created a national *Publish What You Pay* coalition, which has engaged in national discussions on good governance in the extractive sector in the country. Niger adhered to EITI in 2005, and formed a tripartite EITI working group with the participation of civil society representatives. Initially, Nigerien civil society organizations suffered repression and some members were arrested.[52] In 2010 a group of twenty opposition political parties and civil society

[51] Olcer, 2009 at 27.
[52] The government arrested a Nigerien civil society activist who engaged in promoting transparency in the extractive sector, under apparently sham accusations. In protest, representatives of civil society in the EITI tripartite working group in Niger resigned. A campaign by civil society representatives from EITI's

organizations in Niger formed a coalition to oppose a referendum proposed by then president Mamadou Tandja to extend his term after a second and final term (according to the constitution) was about to expire.

The military deposed Tandja in a coup in 2008. The military junta nominated a Consultative Council to spearhead national consultations for a new constitution, to be voted on by Nigerien citizens. The leadership of this Council was given to Marou Amadou, one activist that had been previously arrested for his participation in transparency activities related to EITI. CSOs that had been engaged with resource transparency had an active role in the discussions of the new constitution.[53] On October 31 2010, the citizens of Niger voted on the new constitution that included many provisions institutionalizing transparency in the natural resources sector, going beyond the EITI requirements.[54]

The constitution also mandated an election process for a new president for the country. The election took place in March 2011 (second round). The opposition candidate Mahamadou Issoufou won with 58% of the votes. He declared his support for transparency and accountability in the resource sector, including Niger's continued participation at EITI. Marou Amadou, the former civil society activist, was nominated Minister of Justice and promised to pursue "an ambitious program to strengthen accountability institutions and to fight corruption.[55] The political situation in Niger

---

working groups in other countries created enough political pressure on Western donors and extractive corporations to provoke strong international condemnation. Nigerien civil society representatives only resumed participation in EITI after the release of the activist. *Revenue Watch Institute News* (November 2010) .

[53] Evelyne Tsague, Revenue Watch Institute's Deputy Africa Coordinator, commented on the process: When the opportunity arose for these civil society members to be involved in the constitution drafting process, they brought their years of expertise and advocacy experience to the table in making these suggestions […] "New Niger Constitution Includes Landmark Transparency Measures", online: Revenue Watch Institute.

[54] Article 150 of the constitution requires the publication of all contracts between the government and extractive corporations, and also all the revenues received by the government in a disaggregated, country-by-country basis. Ibid.

[55] World Bank, *Niger Poverty Reduction and Economic Management 3* (2012) at 2, online: World Bank <http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/02/01/000020439_20120201103959/Rendered/PDF/659250PJPR0IDA0isclosed0Feb01020120.pdf>.

remains unstable, however. It is yet to be seen if EITI can serve as a mechanism to lock in these governance gains.

The case of Niger does not seem unique, since other anecdotal evidence from Mozambique and DRC show active participation of fledging CSOs in activities to increase transparency and good governance in the extractive sector and beyond. But it may be difficult to evaluate whether EITI is an independent variable in these national processes.

Conclusion

In this paper I argue that the history of EITI indicates that the initiative was created with the primary purpose to serve as an entry point and tool to create more conducive conditions to promote governance reforms in resource-rich and governance-poor countries that were at risk of falling prey to the resource curse. This is the reason why EITI's institutional framework was designed to overcome some of the shortcomings of earlier regulatory mechanisms used to promote governance reform.

To be clear, I am not making a factual argument that EITI was created exclusively as - and even less that it remains - an entry point for domestic governance reform in host countries. This kind of factual argument would be an empirical task for legal historians and it is beyond the scope of this paper. Besides, the creation and evolution of a transnational initiative such as EITI, involving several stakeholders with very different motivations and operating under bounded rationality, is a complex phenomenon. I argue, however, that there is compelling evidence that key actors behind the initiative considered EITI in this light at its inception. In fact the recent evolution of EITI shows that, a decade after its creation, EITI is undergoing crucial changes that may completely transform its original character of an organization to promote governance reform in a specific group of target countries. EITI is becoming a more ambiguous global regulatory mechanism with multiple regulatory targets and multiple objectives.

EITI now self-defines as a "global standard ensuring transparency and better governance of natural resources". Its stated strategy is to expand the number of implementing countries to include not only resource-rich but governance-poor developing countries and countries in transition, but also middle-income countries - in various stages of development and with various levels of domestic governance indicators - besides developed countries. The stated mission is to transform EITI into a true global standard. Many developed countries that were previously supporters of the initiative are becoming implementers.

Norway began implementing EITI in 2007. In 2011 the USA announced that it would also implement the initiative and has already taken steps by creating a national multistakeholder committee. Australia also decided to implement a pilot project of EITI, although it has yet to officially commit. In 2013 the UK and France also announced their intention to implement EITI standards. Middle-income developing countries such as Peru, Indonesia, Philippines are already implementing EITI, and Colombia declared its intention to join soon. Some of the new EITI entrants - or to be entrants - do not even have natural resources (Burkina Faso and France being two examples). Still, from the 39 implementing countries in 2013 most (31) were governance-poor developing countries, or countries in transition that would greatly benefit from governance reforms in the extractive sector.

Perhaps the membership expansion and the focus on becoming a global standard to be complied with by all countries, rich or poor, is a positive response to criticisms that, by separating developed countries as supporters from developing countries as regulatory targets, EITI was not a true horizontal partnership. Developed countries should implement EITI to show the example and to avoid reasonable accusations of using double standards. Perhaps eliminating the division between supporters and implementers will increase legitimacy and ownership among resource-rich developing countries.

There is however a risk that the initiative will lose track of its original mission to focus primarily in serving as a tool to open entry points to promote governance reform in developing countries with very poor governance indicators and very intractable political economy situations. This would have marked implications. If the objective remains to influence the behavior of resource-rich but governance-poor host countries, EITI should expect its effects to be slower, more subtle and less direct than most of its contemporary proponents and critics recognize. Furthermore, EITI should not be expected to guarantee successful reform, but mainly to improve conditions for such reforms to happen. This more realistic approach should guide the assessment of the initiatives' real potentialities and limitations, and shape the attempts to make it more effective.

Finally, if promoting governance reform was indeed and remains the primary objective of EITI, this has important implications for CSOs and companies that are active members of this multistakeholder initiative. For corporations, for example, the shift from self-regulating their own behavior to actively engaging in attempts to promote governance reform in host countries is a major one that should not be overlooked. By engaging in efforts to promote governance reform in host countries, corporations are deepening the concept of corporate social responsibility. Corporate social responsibility would now include actively helping to solve complex problems in countries where they operate by directly influencing domestic politics.

Because improving governance systems often entails provoking significant changes in national politics and power relations,[56] corporations and CSOs need to seriously evaluate the potential costs and benefits of their strategy to be so directly involved. And if they find it worthwhile, in order to improve their capacity to effectively contribute to the success of these initiatives, corporations and CSOs will need to delve into the evolving political science and law and development scholarships that have struggled to understand the challenges and obstacles to governance reform promotion.

References

Aaronson, Susan Ariel, (2011) "Limited Partnership: Business, Government, Civil Society, and the Public in the Extractive Industries Transparency Initiative (EITI)" 31 Public Administration and Development 50

[56] See Carlos Santiso, Good Governance and Aid Effectiveness: The World Bank and Conditionality, (2001) 7(1) The Georgetown Public Policy Review 1.

Abbott, Kenneth W & Snidal, Duncan , (2009) “Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit” 42 Vand J Transnat’l L 501.

Abramovich, Victor , (2009) “From Massive Violations to Structural Patterns: New Approaches and Classic Tensions in the Interamerican Human Rights System” 6(2) Sur Revista Internacional de Direitos Humanos 6.

Acemoglu, Daron & Robinson, James, Why Nations Fail: The Origins of Power, Prosperity, and Poverty (New York: Crown Business, 2012)

Amin, Samir, *Beyond US Hegemony? Assessing the Prospects of a Multipolar World* (London, UK: Zed Books, 2005).

Arrighi, Giovanni , “Hegemony Unraveling” (2005) 32 New Left Review 23.

Arrighi, Giovanni “Hegemony Unraveling – 2” (2005) 33 New Left Review 83.

Banerjee, Abhijit & Duflo, Esther, Poor Economics (New York City: Public Affairs, 2011).

Bernstein, Steve and Cashore, Benjamin, Non-state Global Governance: Is Forest Certification a Legitimate Alternative to a Global Forest Convention? Steven Bernstein and Erin Hannah, Non-State Global Standard Setting and the WTO: Legitimacy and the Need for Regulatory Space, (2008) 11 (3) Journal of International Economic Law, 575.

Booth, David, (2011), “Aid Effectiveness: Bringing Country Ownership (and Politics) Back In, ODI Working Paper 336.

Brinkerhoff, Derick W & Brinkerhoff, Jennifer M, (2011) “Public-Private Partnerships: Perspectives on Purposes, Publicness, and Good Governance” 31 Public Administration and Development.

Carothers, Thomas & Barndt, William , “Civil Society”, (1999) 117 Foreign Policy 18.

Checkel, Jeffrey T. “Bridging the Rationalist –Constructivist Divide” (1997) 3:4 European Journal of International Relations 473.

Collier, Paul, *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It* (New York, NY: Oxford University Press, 2007).

Cortell, Andrew & Davis, James, “How do International Institutions Matter? The Domestic Impact of International Rules and Norms”, (1996) 40 International Studies Quarterly 451.

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 Press, 2006)

Easterly, William, (2009) Can the West Save Africa? 47(2) Journal of Economic Literature 373.

Eigen, Peter, “Fighting Corruption in a Global Economy: Transparency Initiatives in the Oil and Gas Industry” (2006) 29 Hous J Int’l L 327.

Finnemore, Martha, *National Interests in International Society* (Ithaca, NY: Cornell University Press, 1996);

Gillies, Alexandra, “Reputational Concerns and the Emergence of Oil Sector Transparency as an International Norm”, (2010) 54 International Studies Quarterly 103.

Gillies, Alexandra & Heuty, Antoine “Does Transparency Work? The Challenges of Measurement and Effectiveness in Resource-Rich Countries” (2011) 6 Yale Journal of International Affairs 25

Hardt, Michael& Negri, Antonio, *Empire* (Cambridge: Harvard University Press, 2000).

Haufler, Virginia , “Disclosure as Governance: The Extractive Industries transparency Initiative and Resource Management in the Developing World” (2010) 10:3 Global Environmental Politics 53.

Hilson, Gavin & Maconachie, Roy, "The Extractive Industries Transparency Initiative: Panacea or White Elephant for Sub-Saharan Africa?" in PP Richards, ed, *Mining, Society, and a Sustainable World, (*Berlin: Springer-Verlag, 2009)

Humphreys, Macartan, Sachs, Jeffrey D. Sachs & Stiglitz, Joseph E., Eds, *Escaping the Resource Curse* (New York: Columbia University Press, 2007).

Humphreys, Macartan , "Natural Resources, Conflicts and Conflict Resolution: Uncovering the Mechanisms", (2005) 49 Journal of Conflict Resolution, 508.

Katzenstein, Peter, ed, *The Culture of National Security: Norms and Identify in World Politics* (New York: Columbia University Press, 1996).

Kaufmann, Daniel , Kraay, Aart and Mastruzzi, Massimo, 2009.

Leigh, David, "Angolan Oil Millions Paid Into Jersey Accounts" The Guardian, (4 November 2002).

March, James and Olsen, Johan, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989).

Mattli, Walter & Woods, Ngaire, eds, The Politics of Global Regulation, (Princeton: Princeton University Press, 2009).

McGee, Rosemary & Gaventa, John, eds, *Review of Impact and Effectiveness of Transparency and Accountability Initiatives* (Institute of Development Studies: 2010).

Mehlum, Halvor, Moene, Karl, and Torkik, Ragnar, "Institutions and the Resource Curse" (2006), 116 Economic Journal, 508.

Moravcsik, Andrew "Explaining International Human Rights Regimes: Liberal Theory and Western Europe" (1995) 1 European Journal of International Relations;

Moran, Theodore H., Graham, Edward M.& Blomstrom, Magnus, eds, *Does Foreign Direct Investment Promote Development?* (Washington DC: Institute for International Economics, 2001)

Moyo, Dambisa, Dead Aid: Why Aid is Not Working and How There is a Better Way (New York: Farrar, Strauss and Giraux, 2009).

Olcer, Dilan "Extracting the Maximum from the EITI" (February 2009) OECD Working Paper Number No 276 at 22.

Pegg, Scott, "Chronicle of a Death Foretold: The Collapse of the Chad-Cameroon Pipeline Project" (2009) 108:431 African Affairs 311.

Pritchett, Lant, Woolcock, Michael & Andrews, Matt, (2012) Capability Traps in Development: How Initiatives to Improve Administrative Systems Suceed at Failing, 3 Prism 63.

Santiso, Carlos, "Development Finance, Governance and Conditionality: Politics Matter" (2004) 7:1 International Public Management Journal 73.

Shaxson, Nicholas, *Poisoned Wells: the Dirty Politics of African Oil* (New York: Palgrave MacMillan, 2007).

Trubek, David, "Law and Development", at *International Encyclopedia of the Social & Behavioral Sciences* (N.J. Smelser and Paul B. Bates, eds, 2001).

Trubek, David M & Trubek, Louise G, "New Governance & Legal Regulation: Complementary, Rivalry, and Transformation", (2006) 13 Columbia Journal of European Law 539; Nkwachukwy Orji, "Civil Society, Democracy and Good Governance in Africa" (2009) 4:1 CEU Political Science Journal 76.

Wantchekon, Leonard & Jensen, Nathan, "Resource Wealth and Political Regimes in Africa" (2004) 37 Comparative Political Studies, 816.

Wenar, Leif, 2008. Property rights and the resource curse. Philosophy & Public Affairs

36 (1), 2–32.

Williams, Cynthia, "Civil Society Initiatives and "Soft law" in the Oil and Gas Industry (Oil and International Law: The Geopolitical Significance of Petroleum Corporations)" (2004) 36 NYUJ Int'l L & Pol 457.

Azerbaijan government, Media Release, "Statement by Ilham Aliyev, then first Vice President of SOCAR" online: EITI <http://eiti.org/>. Aliyev would become the next President of Azerbaijan, following his father.

EITI International Advisory Group, "Extractive Industries Transparency Initiative: Report of the International Advisory Group" (2006) at 21 online: EITI <http://eiti.org/document/iagreport>.

EITI Source Book, January 2005, online: EITI, <http://eiti.org/documents/sourcebook>, last accessed September 2013.

EITI, Significant Breakthroughs – reflecting on announcements in EU, US and Australia, October 2011, online: http://eiti.org/blog/significant-breakthroughs-reflecting-announcements-eu-us-and-australia, last accessed September 2013.

EITI International Secretariat, *EITI Rules, 2011 Edition: Including the Validation Guide* (2011), online: EITI <http://eiti.org/files/2011-11-01_2011_EITI_RULES.pdf>.

Global Witness, *A Crude Awakening* (London, UK: Global Witness Publication, 1999)

Global Witness, Press Release, "Publish What You Pay: George Soros and NGOs Call for Rules to Require Corporations to Disclose Payments", (13 June 2012) online: Global Witness <http://www.globalwitness.org/library/publish-what-you-pay>.

About Least Developed Countries Report 2011, online: United Nations Conference on Trade and Development <http://www.unohrlls.org/en/ldc/25/>

Striking a Better Balance: the Extractive Industries Review: The Final Report of the Extractive Industries Review at http://www.eireview.org/.

Oxfam International, Press Release, "Oil, Mining Industry Anti-corruption Moving Too slowly; Mandatory Regulations Needed" (16 February, 2009), online: OXFAM <http://www.oxfam.org/en/pressroom/pressrelease/2009-02-16/oil-mining-industry-anti-corruption-efforts-moving-too-slowly>.

Revenue Watch Institute News (5 November 2010), "New Niger Constitution Includes Landmark Transparency Measures", online: Revenue Watch Institute <http://www.revenuewatch.org/news/new-niger-constitution-includes-landmark-transparency-measures>.

United Nations Development Program, *Governance for Sustainable Human Development: A UNDP Policy Paper* (New York: UNDP, 1997) at 11.