# LOCALISING TRANSPARENCY

Exploring EITI's contribution to sustainable development

EMMA WILSON AND JAMES VAN ALSTINE – 2014

SHAPING SUSTAINABLE MARKETS

UNIVERSITY OF LEEDS

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First published by International Institute for Environment and Development (UK) in 2014



ISBN: 978-1-78431-053-0

For further information please contact: International Institute for Environment and Development (IIED), 80–86 Gray's Inn Road, London WC1X 8NH, United Kingdom. newbooks@iied.org www.iied.org/pubs

Citation
Wilson, E. and Van Alstine, J. (2014) *Localising transparency: Exploring EITI's contribution to sustainable development.* International Institute for Environment and Development. London

Designed by
SteersMcGillanEves
01225 465546

Laid out by
Regent Typesetting
www.regent-typesetting.co.uk

Printed by
Full Spectrum Print Media Ltd
www.fullspectrumpm.co.uk

Cover photo from
iStockphoto.com, Getty Images

Edited by
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Series Editor
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We welcome your comments on this publication or other aspects of Shaping Sustainable Markets. Please contact emma.blackmore@iied.org.



Acknowledgements
The authors greatly appreciate the help provided by Saule Ospanova (Kazakhstan), Ingilab Ahmadov (Azerbaijan), and Jacob Manyindo (Maendeleo ya Jamii, Uganda) both in collaboration on EITI-related and other extractive industries research in recent years, and in reviewing drafts of this paper. We are also very grateful to the following for reviewing drafts and sections of the paper: Lai Yahaya (Nigeria), Gubad Ibadoglu (Azerbaijan), Stavros Afionis and Jen Dyer (University of Leeds), Francisco Paris (EITI Secretariat), Marinke Van Riet (PWYP) and Jonathan Atkinson (DfID).

This research and publication was funded by UK aid from the UK government; however the views expressed do not necessarily reflect the views of the UK government.

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# FOREWORD

The belief that 'the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development' has guided the Extractive Industries Transparency Initiative (EITI) enterprise from its very inception. The EITI design, from the start to its most recent evolution, the EITI Standard, has been based on the recognition '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'. The challenge has been and continues to be ensuring that EITI data and processes – the heart and soul of the whole enterprise – inform, nurture, and help to shape public perception, comprehension, and effective oversight of how resource wealth is produced and used.

*Localising transparency: exploring EITI's contribution to sustainable development* is a well-researched, well-written, and thought-provoking paper that goes to the core of this challenge. By focusing on the subnational dimension, the paper addresses a key element within the big picture of transparency – how we can ensure transparency throughout extractives chains, from prospecting minerals in the subsoil to using generated resources for health, education, and infrastructure – to deliver real, tangible, and sustained development outcomes. We all know that information about the extractive activities and results should be timely, reliable, and comprehensible. This paper makes the case that this information needs to be made relevant to local communities, fostering local stakeholders' understanding, and enabling this key group of stakeholders to have an impact on how resource wealth is used.

One always needs to be reminded that there are no panaceas for ensuring desirable development outcomes. Not only are several efforts needed but these efforts also need to reinforce each other and work together to ensure that each step achieves the required intermediate results. The paper should be read with this in mind. *Ceteris paribus*, though, the central argument in the paper is spot on in identifying the practical nuts and bolts that need to be in place to ensure that communities benefit from EITI implementation and use the information that is made available. Capacity building is required for local actors who need to understand more about this complex industry: training is essential, using local expertise in research and analysis is much needed, and local discussion and campaigning is vital. This cannot be achieved without engagement on the issues of local concern, be they social investment, environmental obligations, or job creation, to mention a few.

Five case studies enrich the paper. The conclusion that there are no one-size-fits-all subnational tools is important and useful. Going further, the subnational frontier of EITI implementation requires innovative approaches that ensure EITI Principles are applied to local conditions. We all need to be more creative in building appropriate subnational toolkits. The findings of this paper will inform this quest. National and regional EITI implementations' dynamics should reinforce each other. National-level data, findings, and improvements in financial management are all elements that should feed and contribute to communities in better understanding revenue management. For example, civil society organisations based in the capitals of various countries need to work closely with locally based ones.

The paper's concluding point on the need to build meaningful linkages between governance agendas is a refreshing reminder that no single instrument will suffice in getting to where we all aim to be. This paper is an indispensable read for everyone in the international community, for analysts, and for country stakeholders to get a better understanding of the challenges and the lessons learnt in implementing the EITI, and, hopefully, to continue shaping the solutions that people deserve.

Francisco Paris, Regional Director, EITI

# EXECUTIVE SUMMARY

The global boom in natural resource extraction has driven foreign direct investment into some of the world's poorest economies, providing huge development opportunities, but with the risk of failure due to corruption and mismanagement of revenues. According to the 2013 Africa Progress Report, tax avoidance and opaque natural resource deals cost Africa 25 billion GBP annually – twice as much as the continent receives in aid (Africa Progress Panel, 2013). Transparency is rising up the political agenda, and was a key theme of the 2013 G8 summit, hosted by the UK government in Northern Ireland. Kofi Annan, head of the Africa Progress Panel, has called for greater transparency as a way for African countries to manage their resource wealth for positive transformation rather than squandering it (Annan, 2013).

A major player in this space is Publish What You Pay (PWYP) – a coalition of over 800 non-governmental organisations (NGOs) that has been campaigning for the past decade for voluntary and legal transparency and good governance in natural resource sectors as a way to combat corruption, reduce conflict, and achieve sustainable resource-based development. In 2002, these efforts helped to establish the Extractive Industries Transparency Initiative (EITI) – a voluntary global standard for disclosing company payments and government revenues, overseen in-country by multi-stakeholder groups (MSGs) of government, companies, and civil society, which steer the EITI process. EITI has put transparency on the map – in some unexpected places. Iraq, Azerbaijan, Nigeria, and Liberia are among the 27 countries globally that are EITI-compliant as of May 2014.

The EITI Principles and Articles of Association establish the aspiration of the initiative to reduce corruption and poverty and promote sustainable development (EITI, 2013a). Yet a decade since EITI was founded, the question remains how to make transparency work for sustainable development, particularly for the local communities living closest to the resource extraction projects. Recent research has explored how transparency seeks to inform, empower, and improve environmental governance (Van Alstine, 2014). Indeed one of the key achievements of EITI is the way it has helped to empower and build the capacities of civil society organisations in implementing countries. Yet how the EITI influences pro-poor societal change is not well understood. Its **processes** may inform and empower, but attributing substantive **impacts**, such as reducing poverty or corruption, is not easy. EITI has been increasingly criticised for lacking a theory of change that clarifies how the initiative aims to deliver on the goals embedded in its principles.

While **empowerment and strengthened capacity** have been key outcomes from EITI processes, efforts are often limited to stakeholders in the national capital, rather than local community residents and interest groups. Moreover, a trend noted by observers is that civil society in some EITI countries is being oppressed rather than empowered outside of the EITI processes. Azerbaijan, one of our case study countries, is a good example of this, but it is not the only EITI country where this trend has been observed.

**This paper considers whether 'localising' the transparency agenda – i.e. making it more relevant to local communities directly affected by extractive industry operations – might increase its potential to deliver sustainable**

**development and poverty alleviation objectives within resource-dependent countries.** We use a number of case-study countries to explore this question, comparing two lower middle-income countries that are EITI compliant (Ghana and Nigeria), two middle-income countries that are EITI compliant (Azerbaijan and newly-validated Kazakhstan), and a lower-income country that is considering EITI participation (Uganda).

The paper draws on material gathered via a review of current academic and popular literature on the topic of transparency in the natural resource sectors, mainly oil, gas, and mining. It incorporates analysis of materials and presentations made at the 2013 EITI global conference, and informal engagement with key stakeholders, including NGOs, industry representatives, and government in Sydney, London, and in the case-study countries. We assess the overall progress of EITI, considering how and whether EITI has been able to make an impact at the local level, through civil society empowerment or direct implementation of subnational actions. We highlight three key challenges that specifically relate to 'localisation' of the transparency agenda, as summarised below.

## USE OF EITI DATA BY LOCAL STAKEHOLDERS

A key assumption of EITI is that **the public will interpret and use EITI data** to hold government and industry to account – to achieve sustainable development outcomes. Yet there is a lack of real understanding about how they can do this effectively. Analysts have concluded that local communities and civil society are not the key target group for EITI reports, while others consistently note that local communities are not getting access to the information that they really need. Project-level reporting is one way to address this issue, and its inclusion in the new EITI Standard of 2013 is welcome.

## LOCAL IMPLEMENTATION OF EITI

**Expansion of the EITI mandate to the subnational level** is important to enhance its impact. Yet where EITI has been implemented locally, it suffers from the same challenges as national level implementation, including fluctuating political will, lack of capacity among government and civil society stakeholders, lack of consistent financial support, and lack of meaningful engagement with local communities. At the same time there have been some innovative pilots, such as in Ghana and Nigeria, and efforts to adopt EITI's multi-stakeholder dialogue approach at the local level, such as in Kazakhstan, which continue to evolve.

## FORGING LINKAGES WITH OTHER INITIATIVES TO ENHANCE LOCAL OUTCOMES

EITI cannot expand to cover all the issues that stakeholders would like it to address. Yet much more could be done to build linkages between EITI and other poverty reduction and sustainable development initiatives in resource-bearing regions. These include initiatives addressing key issues of significance to local communities, including tax reform, environmental protection, corporate social investment (community development spending), and efforts to address major corruption issues with significant local impact, such as oil theft in Nigeria.

## RECOMMENDATIONS

The paper concludes with a set of recommendations for EITI stakeholders:

1. **MSGs and international partners should incorporate consideration of local relevance and impact into national EITI theories of change.**
2. **MSGs and international partners need to make EITI data more relevant to local communities in regard to form, content, and overall accessibility.**
3. **MSGs and international partners should build meaningful linkages between EITI and other environmental and resource-governance agendas aimed at poverty reduction and sustainable development outcomes at the local level.**
4. **Donors and governments should support case-study research of subnational implementation and local multi-stakeholder initiatives.**
5. **Donors and international partners should review technical assistance approaches with the aim of building, not undermining, local and national capacities.**

The term 'localisation' generally relates to those communities located close to extractive industry operations, although it also relates to broader national-level stakeholders when considering capacity building and involvement of national experts.

The paper is aimed at a range of stakeholders, including implementing governments; the EITI Secretariat; participating companies; international NGOs e.g. PWYP, Revenue Watch Institute (RWI), Natural Resources Charter (now merged with RWI); EITI implementing bodies, such as in-country EITI secretariats, MSGs, and civil society platforms; and international organisations and donors e.g. the World Bank, the UK Department for International Development (DfID) and other bilateral donors. We welcome comments and responses and look forward to further evolution of the dialogue.

# ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| BEITI | Bayelsa Income and Expenditure Transparency Initiative, Nigeria |
| CNOOC | Chinese National Offshore Oil Company |
| CPI | Corruption Perceptions Index (Transparency International) |
| CRN | Azerbaijan's Civic Response Network |
| CSOs | Civil society organisations |
| CSPOG | Civil Society Platform on Oil and Gas, Ghana |
| DfID | UK Department for International Development |
| DI | Democracy Index (Economist Intelligence Unit) |
| EBRD | European Bank for Reconstruction and Development |
| EFCC | Economic and Financial Crimes Commission, Nigeria |
| EITI | Extractive Industries Transparency Initiative |
| ESHIA | Environmental, social, and health impact assessment |
| FOSTER | Facility for Oil Sector Transparency |
| FPIC | Free, prior, and informed consent |
| GHEITI | Ghana EITI |
| GIMPA | Ghana Institute of Management and Public Administration |
| GRECO | Groups of States against Corruption |
| HDI | Human Development Index (UNDP) |
| IIED | International Institute for Environment and Development |
| IFC | International Finance Corporation |
| IFIs | International financial institutions |
| ILGS | Institute of Local Government Studies, Ghana |
| ISODEC | Integrated Social Development Centre, Ghana |
| MMSD | Mining, Minerals, and Sustainable Development Project |
| MSG | Multi-stakeholder group (general term for EITI in-country governing body) |
| MoU | Memorandum of Understanding |
| NADeF | Newmont Ahafo Development Foundation Ghana |
| NEITI | Nigeria EITI |
| NGGL | Newmont Ghana Gold Limited |
| NGO | Non-governmental organisation |
| NNPC | Nigerian National Petroleum Company |
| NOSDRA | National Oil Spill Detection and Response Agency, Nigeria |
| NRC | Natural Resources Charter |
| NSWG | National Stakeholder Working Group, Nigeria |
| OGP | Open Governance Partnership |
| PACE | Parliamentary Assembly of the Council of Europe |
| PIB | Petroleum Industry Bill, Nigeria |
| PWYP | Publish What You Pay |
| RGI | Resource Governance Index |
| RWI | Revenue Watch Institute |
| SEC | US Securities and Exchange Commission |
| SOCAR | State Oil Company of Azerbaijan Republic |
| SOE | State-owned enterprise |
| SOFAZ | State Oil Fund of Azerbaijan |
| UNDP | United Nations Development Programme |

# ONE
# INTRODUCTION

Since the early 2000s, increased demand for raw materials, particularly on the part of emerging economies, has fueled a global commodity boom (UNDP, 2007). Higher commodity prices have driven an increase in foreign direct investment into the world's poorest economies, which suggests that there may be a 'window of opportunity' for these mineral-rich but poor economies to accelerate their development (ibid.). Indeed, a third of African economies grew by more than 6 per cent in 2012 due to natural resource exports (Africa Progress Panel, 2013), while the World Bank reports that in 2013 net inflows of foreign direct investment to sub-Saharan Africa rose by 16 per cent to US$43 billion, largely due to increased natural resource investments (World Bank, 2014).

However, countries that are dependent upon exploitation of natural resources often suffer from the so-called 'resource curse', characterised by poor economic growth, low living standards, corruption, and political authoritarianism (Collier, 2007; Gary and Karl, 2003; Hilson and Maconachie, 2009). In middle-income countries such as Azerbaijan and Kazakhstan, whose development indicators have improved greatly due to the exploitation of mineral resources, the difference between rich and poor is still stark. The poorest tend to live in the outlying regions far from the capital cities; often in the resource extraction regions themselves (Ahmadov *et al.*, 2013; Keblusek, 2010). Corruption scandals and worker riots in Kazakhstan have fuelled public calls for greater accountability in the oil and gas sector (LeVine, 2007; Najman *et al.*, 2008; Yessenova, 2012). In Africa, tax avoidance and opaque natural resource deals cost 25 billion GBP annually – twice as much as the continent receives in aid (Africa Progress Panel, 2013). Between 2010 and 2012, the Democratic Republic of Congo lost at least USD 1.36 billion (GBP 850 million) in revenues through corrupt mining deals, while Nigeria lost around USD 6.8 billion (GBP 4.2 billion) through corruption and mismanagement of fuel subsidy transfers (ibid).

An international agenda has evolved since the late 1990s which seeks to engage with corruption and mismanagement of natural resource revenues through the institutionalisation of good governance norms such as transparency and information disclosure (Haufler, 2010). Transparency in the extractive industries has been rising up the political agenda, and was a key theme of the June 2013 G8 summit in Lough Erne, Northern Ireland, hosted by the UK government. The summit was dubbed 'the transparency summit' by The Economist (2013). G8 leaders announced their commitment to introduce new transparency laws that would require oil, gas, and mining companies to disclose the payments they make to governments, and acknowledge the need for a global standard on payment reporting.

Amendments to European Union Accounting and Transparency Directives – which came into force in October and November 2013 – require companies listed on EU stock exchanges, as well as larger non-listed companies, to disclose payments to governments – project-by-project and country-by-country. The EU amendments follow the US Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010. The extractive industries disclosure provision of this Act (Section 1504) requires all US-listed companies to disclose payments to governments when reporting annually to the US Securities and Exchange Commission.

At the time of the G8, Canada announced they would implement reporting regulations similar to the Dodd–Frank Act and the EU Directives. The UK committed to a register of beneficial owners, requiring companies to declare who owns, controls, and benefits from their activities, while the G8 decided to provide back access to such information for tax collectors and law enforcers (see e.g. CAFOD, 2013). In January 2014, Canada's mining industry, in partnership with PWYP Canada and RWI, endorsed the requirement for mandatory reporting to provincial securities commissions of project-related payments they make to governments, and urged governments to move quickly to implement the plan, to allow citizens in mineral-rich countries to hold governments and industry to account for resource revenues (McCarthy, 2014).

Kofi Annan, head of the Africa Progress Panel, has called for greater transparency as a way for African countries to manage their resource wealth for positive transformation rather than squandering it (Annan, 2013). Annan urged the G8 to empower African governments through capacity building, noting that: 'The region's revenue authorities are hopelessly ill-equipped to tackle problems such as transfer pricing or to counter illicit transfers' (ibid). Annan is lending his voice to those of civil society campaigners, notably the Publish What You Pay (PWYP) coalition of over 800 non-governmental organisation (NGO) members, which has been campaigning tirelessly for the past decade for voluntary and legal transparency and good governance in natural resource sectors as a way to combat corruption and reduce conflict, and achieve sustainable resource-based development (see Box 1).

It was the efforts of PWYP and others in the early 2000s that helped to establish the Extractive Industries Transparency Initiative (EITI) in 2002. The EITI is a voluntary global standard for disclosing company payments and government revenues, and increasingly disclosure of further information (including in-country financial transfers); as well as training and capacity building of government and civil society stakeholders and building dialogue at national and regional levels. The process is overseen in-country by multi-stakeholder groups (MSGs) of government, companies, and civil society organisations, which make decisions about the day-to-day running of the EITI process. EITI has put transparency on the map – in some unexpected places. Iraq, Azerbaijan, Nigeria, and Liberia are all EITI-compliant (EITI, 2014c). It is no longer an initiative supported by OECD countries and implemented in developing countries. Norway is already compliant, while France, Germany, Italy, the US and the UK declared that they would be signing up to EITI in 2013.

The EITI Principles and Articles of Association establish the aspiration of EITI to reduce corruption and poverty and promote sustainable development. Article 2.2 of the Articles of Association states that 'strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries' (EITI, 2013a: page 44). Principle 4 recognises specifically 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' (ibid: page 9). The new EITI

Standard adopted in June 2013 (ibid) seeks to tackle the barriers to meeting the aspirations of these principles, and respond to the challenges of its key stakeholders including PWYP.

A key achievement of EITI is the empowerment of civil society, especially in countries such as Azerbaijan and Kazakhstan where civil society voices have traditionally been very weak. Another of EITI's strengths is the voluntary government sign-up and business buy-in, which provide legitimacy and high-profile support; although some argue that the need to agree actions by consensus has weakened EITI's potential for innovation and substantive pro-poor impact (Ahmadov and Wilson, 2012).

Like many transparency initiatives, EITI is criticised for failing to achieve sustainable development goals or even any greater accountability in resource governance, and for lacking an operational theory of change (Scanteam, 2011). For example, Azerbaijan was the first country to become EITI compliant in 2009, yet civil society groups are disappointed at the lack of real change in the country in relation to poverty and corruption. A leading transparency activist and opposition leader was recently arrested for 'organising mass disorder', accusations which are believed to be false and politically motivated (Global Witness, 2014). As will be discussed in our case studies in chapter four, many of the indicators of good governance, corruption, and human development have not substantively improved in many EITI participating countries. It is clear that revenue transparency alone is not enough to ensure good governance and poverty reduction.

A decade since EITI was established, and with the adoption of the new EITI Standard in 2013, the question remains how to make transparency work for sustainable development, particularly for local communities living closest to the resource extraction projects. Communities on the fenceline of extractive industry operations often bear the brunt of the negative impacts, and much of the public debate over mining, oil, and gas operations is about local-level impacts (Nguyen-Thanh and Schnell, 2009). Moreover, these communities often feel the least informed about the projects that are taking place on their lands.

A key question is whether global initiatives such as EITI would have a greater impact on local development outcomes if they were more relevant to local populations, through direct engagement with local communities and dissemination of locally accessible information on topics of most significance to those communities. Using five country case studies as the basis for analysis, this paper therefore considers **whether localising the transparency agenda – i.e. making it more relevant to local communities directly affected by extractive industry operations – might increase its potential to deliver sustainable development and poverty alleviation objectives within resource-dependent countries.**

We should make clear that by choosing 'localisation' as the focus for this analysis, we are not dismissing the significance of the many other elements of the bigger picture that need to be addressed in order to ensure that the benefits from natural resources extraction can address broader development challenges. These include national governance challenges, political leadership, national financial institutions, and relations between governments and external players including companies and donors. Some of these issues are covered briefly in the case studies, as a way to provide a broader context for the analysis.

The selection of case-study countries in the Caspian Sea region and sub-Saharan Africa allows comparison of two lower middle-income countries that are EITI compliant (Ghana and Nigeria), two middle-income countries that are EITI compliant (Azerbaijan and Kazakhstan, the latter being validated only recently in 2013), and a lower-income country that is considering EITI participation (Uganda).

The paper draws from material gathered via a review of current academic and popular literature on the topic of transparency in the natural resource sectors, mainly oil, gas, and mining. It also uses material from interviews with key stakeholders from the focus countries and international experts in the field.[1] It incorporates analysis of materials and presentations made at the 2013 EITI global conference, and informal engagement (directly and using email and Skype) with key stakeholders in Sydney, London, and in the case-study countries.

Chapter two discusses the emergence of the 'transparency in resource governance' agenda and the origins of the EITI by way of setting the context. Chapter three explains the design and implementation of the EITI with a discussion of its strengths and weaknesses, and the implications of the new EITI Standard, adopted in 2013. This offers necessary background to understand the extent to which EITI's design and current application are conducive to local-level implementation and impact.

In chapter four, we analyse the implementation and impact of the EITI in resource governance in our case-study countries, considering the extent to which EITI is relevant at the local level, and the scope for enhanced local impacts. In chapter five, we conclude by considering three key issues identified during the case-study analysis:

- the use of EITI data by local stakeholders;
- local implementation of EITI; and
- forging linkages with other initiatives to enhance local outcomes.

We also offer a set of recommendations for EITI stakeholders aimed at ensuring that information generated through the EITI leads to enhanced knowledge and empowerment of local populations and, ultimately, to positive social and economic change for local communities.

1. Over 30 interviews were conducted with key stakeholders, including community leaders, traditional authorities, district government officials, media, industry, national government officials, and civil society leaders.

# TWO
# ORIGINS AND EVOLUTION OF TRANSPARENCY IN RESOURCE GOVERNANCE

This chapter seeks to explore the evolution of the transparency agenda in resource governance and EITI's place in this evolution. As we suggest, much of the motivation to increase transparency in resource extraction industries is the desire to see these industries contribute more to local socio-economic development, and to ensure that local people are better able to hold government and industry players to account.

Although the EITI is a relatively young international standard, it is representative of a turn in the 'governance by disclosure' agenda within the field of global governance since the early 1990s (Rhodes, 1996). This 'light touch' way of correcting market failures is indicative of a larger trend of market-driven and neoliberal environmental governance (Gupta, 2010). This study considers transparency – specifically the work of EITI – within the context of 'governance by disclosure', which puts primacy on the provision of information by state and non-state actors as a 'means of social steering' (ibid). Transparency challenges the traditional norms of corporate privacy and state sovereignty and is invoked in a wide variety of issue areas including security, financial policy, economics, corruption, human rights, and the environment, prompting Haufler (2010: 56) to call it the 'Swiss army knife of policy tools'.

Four broad trends dating back to the 1990s and early 2000s influenced the diffusion of transparency in resource governance norms (see e.g. Benner and Soares de Oliveira, 2010). First, as discussed in the introduction, the link between natural resource wealth and development outcomes came under scrutiny. Academics and policy analysts identified the so-called 'resource curse' and began to interrogate its economic, social, political, and institutional causes and consequences (Auty, 1993; Ross, 1999; Sachs and Warner, 2001; Humphreys *et al.*, 2007). Second, policy makers began to reframe the resource curse as a political-institutional challenge stymied by 'bad resource governance', as opposed to a quasi-automatic phenomenon that poor resource-rich countries were destined to follow (Mehlum *et al.*, 2006; Robinson *et al.*, 2006). This coincided with a shift in the thinking of western donors and international financial institutions, after questioning the efficacy of the neoliberal Washington Consensus economic reforms of the 1980s,[2] to promote good governance and institutional reform to achieve economic development (Benner and Soares de Oliveira, 2010).

Third, the international community began to engage with issues such as corruption, human rights, and sustainability (Gary and Karl, 2003; International Alert, 2009). These discursive

2. The term Washington Consensus started to be used in the late 1980s to describe the economic policy prescriptions (e.g. macro-economic stabilisation, opening up of trade and investment, deregulation) that were promoted for developing countries in crisis in the 1980s by institutions such as the International Monetary Fund and the World Bank, based in Washington DC. The term is now used more broadly to refer to a strongly market-based approach (sometimes described as market fundamentalism or neoliberalism).

arenas began to question established negative practices of the extractive industries, which included paying bribes, committing human rights offences, and harming the environment. Fourth, the legitimacy of multinational corporations in developing countries came under intense scrutiny in the 1990s. From child labour in Nike's Asian factories to Royal Dutch Shell's alleged role in the execution of Nigerian human rights and environmental activist Ken Saro-Wiwa in 1995, pressure mounted for industry to become more transparent and accountable in its international operations. As Benner and Soares de Oliveira (2010: 292) observe, '"the business of business is business" approach was no longer tenable for brand-sensitive western-based multinational corporations'.[3]

A key event in setting the agenda for transparency in natural resource governance was the 1999 Global Witness report, *A Crude Awakening*, which highlighted the role of the oil and banking industries in the plundering of state assets in Angola's 40-year war (Global Witness, 1999). In response to rising criticism and in the run-up to the World Summit on Sustainable Development in Johannesburg, nine major mining companies initiated a two-year independent project between 2000 and 2002 to assess the contribution of the minerals sector to sustainable development, known as the Mining, Minerals and Sustainable Development Project (MMSD, 2002). Although this initiative was accused by its critics of being 'reformist' (Bebbington *et al.*, 2008: 904) it marked the beginning of an ongoing dialogue on the extractive industry's contribution to sustainable development and greater transparency in information production and dissemination throughout the extractive industries project cycle. Ten years on, the International Institute for Environment and Development (IIED), which was closely involved in the MMSD project, reviewed progress since the close of the project, concluding that while understanding of sustainable development had increased dramatically in the sector, the effective implementation of standards was still lacking, highlighting *inter alia* the need to develop more sophisticated approaches to local development issues (Buxton, 2012).

Another initiative which provides insight into the institutionalisation of the revenue transparency agenda is the extractive industries review of the World Bank Group, which was carried out between 2001 and 2004 (World Bank, 2003; 2004). The review was initiated following protest over the Bank's poor resource-led development track record, and sought to evaluate whether extractive industry projects could be compatible with the World Bank Group's goals of sustainable development and poverty reduction. Critics have highlighted how Bank officials were unwilling to accept several of the review's recommendations (Hilson and Maconachie, 2009); however, others felt the review marked a 'paradigm shift in thinking about resource-led development' (Pegg, 2006: 385). Revenue transparency in fact emerged in the review 'as one of the few issues that everyone could agree on' (van Oranje and Parham, 2009: 39), with Bank officials requiring revenue transparency 'as a condition for new investments in the extractive industries sector' (World Bank, 2004: 4). The review also led to substantial review

3. For more on 'the business of business is business' see the original article by Milton Friedman (1970) that outlines this approach.

and revision of the World Bank and International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability, including an increased demand for effective public consultation processes.

Gillies (2011) argues that the reputational concerns of influential international players – western governments, international financial institutions (IFIs), and multinational companies – have strongly influenced the emergence of transparency as a norm in the oil and gas sector, which was notoriously opaque until the end of the 1990s. In the light of high-profile advocacy campaigns and increased third-party scrutiny, these influential players have started to see transparency as a way to protect their public image. Gillies concludes that further adoption of transparency is inhibited by the lack of a similar reputational motivation for some emerging oil industry players (e.g. junior companies, state-owned companies, and subcontractors).

Thanks in no small part to the efforts of PWYP, in the wake of growing momentum for transparency in resource governance, and in the spirit of public-private partnership, the EITI was launched by then UK Prime Minister Tony Blair at the World Summit on Sustainable Development in 2002. As will be discussed below, the EITI has evolved into a voluntary international standard involving 41 countries (four of which have been suspended), and with many more now showing an interest.[4]

The EITI is, of course, not the only initiative that seeks to promote greater transparency and accountability of resource extraction industries. The effect of EITI needs to be seen in the context of other initiatives also operating globally and at the national level in resource extraction countries (see Box 1). It is worth noting, however, that EITI is distinct from the others in the specific rules and enforcing mechanisms that it employs.

As noted above, the 2013 G8 summit had 'transparency' as one of its key themes along with taxation and trade. The publication of the Africa Progress Report (Africa Progress Panel, 2013) and targeted speeches by the Africa Progress Panel's Chair Kofi Annan, led to serious consideration of the importance of using transparency to improve the prospects of lower-income countries to make the most of their resource potential. The question is, however, **can transparency deliver on these high expectations?**

In this paper, we focus in particular on EITI as a distinct transparency initiative because of its particular structure, the need for national government buy-in, the fact that it is an expanding initiative and is increasingly being institutionalised within implementing countries. But we are also aware of the need not only for readers and analysts, but for EITI-implementing nations and partners themselves, to be aware of the different initiatives and the fact that they all share similar goals and aspirations. It is critical for all these different stakeholders and initiatives, and the various EITI-implementing partners themselves, to work together to achieve these goals.

4. These figures are correct at the time of going to press (April 2014) but are subject to change. For up-to-date figures, see: http://eiti.org/

## BOX 1: EITI – ONE OF MANY TRANSPARENCY AND RESOURCE GOVERNANCE INITIATIVES

**The Publish What You Pay campaign** (PWYP) formally began in 2002 as an alliance of London-based NGOs calling for transparency and accountability throughout the extractive industries value chain. It focuses not only on reform and implementation of EITI, but also on other instruments, such as stock exchange rules and legislative initiatives like Dodd–Frank and the EU directives. The aim is to 'provide women, men, and youth in resource-rich countries with the information to demand accountability from both industry and government' (PWYP, 2011). In 2013, PWYP launched its Vision 20/20 strategy, which broadened its campaign along the so-called 'chain for change', the value chain for and from citizens. The 'publish why you pay and how you extract' pillar of the strategy seeks to enable citizens to influence decisions on extraction rights, and monitor and influence the terms and conditions of contracts signed between governments and companies. The 'publish what you earn and how you spend' pillar seeks to ensure that revenues generated by natural resources are used to benefit all citizens.

**The Revenue Watch Institute** (RWI) is a non-profit policy institute and grant-making organisation focusing on capacity building, technical assistance, research, and advocacy. RWI began in 2002 as a programme of the Open Society Institute, working initially in Azerbaijan, Kazakhstan and Iraq, focusing on how authorities collected and used the money earned from oil. RWI became an independent organisation in 2006 and is based in New York, with registered offices in London, Lima, Peru and Accra, Ghana, and an operational presence in Azerbaijan, Indonesia, Lebanon, Nigeria, and Tanzania. In 2010, RWI was instrumental in setting up the **Natural Resource Charter (NRC)**, a set of economic principles for governments and societies on how to best manage the opportunities created by natural resources for development. In 2013, RWI and NRC merged. In 2013, RWI produced the **Resource Governance Index (RGI)**, which ranks countries for the governance of oil, gas, and mining, based on their legal frameworks, reporting practices, and enabling environment. In March 2014, RWI launched a web-based guide to the EITI Standard for government, companies, and civil society.

**The Africa Mining Vision (AMV)** was adopted by heads of state at the February 2009 African Union summit. Over and above the optimisation of tax revenues and wise spending of income, the AMV advocates the need to: integrate mining into local, national, and regional development policy; ensure workers and communities benefit from mining; protect the environment; enhance government capacity to negotiate contracts to deliver fair resource rents and local opportunities; and help Africa shift from raw material export to providing both local manufacturing expertise and knowledge services.

**The Africa Progress Panel (APP)** consists of ten high-profile sustainability advocates from the private and public sector, led by Kofi Annan. The panel facilitates high-level coalition building, convening, and knowledge sharing to influence policy and create change for Africa. By bringing together policy analysts, experts, and practitioners, the APP helps to generate evidence-based policies. The 2013 Africa Progress Report focused in particular on transparency in Africa's oil, gas, and mining sectors, raising the profile of transparency prior to the 2013 G8 summit (Africa Progress Panel, 2013).

Other initiatives include the **International Monetary Fund (IMF) Guide on Resource Revenue Transparency**; the **IFC Performance Standards on Environmental and Social Sustainability**; the **Equator Principles;** the **International Council on Mining and Metals (ICMM) Sustainable Development Framework**, and **UN conventions on human rights and anti-corruption.**

Sources: www.publishwhatyoupay.org; www.revenuewatch.org; naturalresourcecharter.org; www.revenuewatch.org/rgi/report; www.revenuewatch.org/news/revenue-watch-releases-web-based-guide-eiti-standard; www.africaminingvision.org; africaprogresspanel.org/homepage

# THREE
# EITI DESIGN AND IMPLEMENTATION

EITI is a voluntary international standard that seeks to strengthen governance of the extractive industries through the disclosure of company payments and government revenues, and increasingly through other means, including disclosure of further information (such as in-country transfers); as well as through training and empowerment of government and civil society stakeholders; and building dialogue between national and regional stakeholders. The assumption is that greater transparency will improve accountability, leading to better governance of extractive industry sectors, reduced corruption, and ultimately to better development outcomes from resource extraction.

Since its launch in 2002, EITI has evolved into a global initiative involving 44 countries (27 compliant and 17 candidate countries) as of May 2014. With Norway now compliant, and the US, UK, Italy, Germany, and France having expressed their intention of signing up, EITI is no longer an initiative pushed by western countries for developing countries to implement. EITI enjoys support from high levels of political leadership worldwide, and has had consistent financial backing from supporting countries and donors. EITI is also supported internationally by over 80 companies and a wide variety of other stakeholders including NGOs, IFIs, and academic partners (EITI, 2014). EITI's most recent global conference, in Sydney in May 2013, had 1200 participants from 96 countries, demonstrating its global reach (EITI, 2013d).

## 3.1 EITI DESIGN

A 2011 review of EITI stated that its governance structure and organisation were 'very fit for purpose', though stretched in terms of human and financial resources (Scanteam, 2011). The EITI Association operates under Norwegian law as a non-profit association made up of three constituency groups: countries (implementing and supporting); supporting companies (including institutional investors); and civil society organisations.[5] The secretariat is based in Oslo. Oversight is provided by a 20-member board representing implementing and supporting countries, civil society, industry, and investment companies. The global conference currently takes place once every two years, and at this conference the EITI board is appointed for two years at a members meeting, consisting of representatives of implementing and supporting governments, civil society, companies, and institutional investors.

As O'Sullivan (2013: 4) observes, EITI has thus evolved through 'continuous negotiation among participants with diverse worldviews and sometimes conflicting interests'. O'Sullivan acknowledges that the consensus-based approach has been critical to EITI's longevity, while transparency itself has a broad appeal to EITI's diverse constituents:

*…Transparency is a technocratic and seemingly neutral idiom, appealing to governments and companies that wish to respond to corruption and other problems of governance, or that wish to be seen to be doing so, without fear of triggering an angry reaction. The idiom has also been attractive*

5. The list of members of the EITI Association can be found here: eiti.org/files/EITI%20MEMBERS%20REGISTRY_2013_1.pdf

*to civil society activists, particularly in more repressive states, as a possible way to couch hard questions about power and accountability within a conceptual framework tolerated by their rulers (O'Sullivan, 2013: 5).*

A distinguishing feature about the EITI is that it is a government-driven process. Countries apply to join EITI on a voluntary basis. In order to become an EITI candidate country, respective governments must meet five sign-up requirements, which include a public statement of intention, a commitment to work with civil society and companies, and the establishment of a multi-stakeholder group – or MSG – to oversee implementation (EITI, 2013a). To achieve EITI-compliant status or to extend candidate status beyond two and a half years, governments must complete an EITI validation. An independent validator conducts this using the methodology defined in the EITI Rules. A country is recognised as EITI-compliant if, according to the EITI international board, it has met all of the requirements. To date, implementing country governments have paid for the implementation and validation of their own EITI processes. The international community supports EITI implementation both bilaterally and through the EITI multi-donor trust fund, which is managed by the World Bank. The secretariat is funded by supporting governments and companies.

## 3.2 EITI IMPLEMENTATION – FROM INTENT TO IMPACT

The broad field of transparency and accountability initiatives (including the EITI) has come under increasing scrutiny for not clearly identifying how transparency may lead to accountability and broader societal change (Acosta, 2011; 2013; Darby, 2011; McGee and Gaventa, 2011). EITI has been criticised for lacking a robust theory of change explaining how it will contribute to societal transformation. Scanteam (2011) observe that this is largely because interventions have been decided not on the basis of how they could ensure such transformation, but because they were the interventions that all parties could agree on. In response, an EITI strategy working group on theory of change adopted a theory of change framework to assess the impact of EITI in implementing countries (EITI WGTOC, 2012). The generic linear 'theory of change' model for EITI-implementing countries developed by the working group includes: inputs (resources such as staff, money, and knowledge); activities (actions taken by the intervention); outputs (immediate results of the intervention); outcomes (how users utilise outputs); direct impacts (immediate changes as a result of outcomes); and indirect impacts (higher-level, longer-term development goals) (ibid; GIZ, 2011). The new EITI Standard indicates that this kind of planning should be done at the national level by the MSG. This would be an opportunity for key stakeholders to incorporate local-level development outcomes into their planning targets, identifying activities and outputs that will ultimately lead to positive impacts including poverty reduction and sustainable development.

In this section, we assess some of the essential elements – as outlined in the current literature – that need to be in place for EITI to move from intent to impact, taking poverty reduction and sustainable development as the ultimate desired impact. These include the need for consistent political will, institutionalisation of EITI, EITI reports, an active and engaged civil society, private sector support, and the assistance of international partners, as discussed below.

- **Political will:** The way that political will is gained and maintained over time is context specific and often a combination of both local and international or external pressure. The political will to implement EITI may be influenced by a charismatic leader with an eye on their legacy, such as Nigeria's former President Obasanjo – or at the local level in Nigeria, the governor of Bayelsa State (see section 4.3). There may be a desire to improve a country's image on the international stage (including in the eyes of investors), as in the case of Azerbaijan; or direct pressure from donors to demonstrate commitment to transparency and reducing corruption, as a condition of development loans as in the case of Nigeria. Yet when these drivers change (e.g. a country secures donor support or substantial foreign investment), it may be difficult to maintain the political will to continue implementation, or to push for greater reforms and deeper implementation. Our case studies indicate that political will is likely to fluctuate, especially at key points such as post validation, when other political priorities tend to take over. This is evident in efforts to implement EITI not only at the national level, but also at the subnational level.
- **Institutionalisation of EITI:** One of the key outcomes of EITI implementation is the institutionalisation of EITI through legislation, notably Nigeria's landmark NEITI Act of 2007, which has been an inspiration to Liberia, Ghana, and now Zambia, the Philippines and Azerbaijan. Institutions have also been set up within government to implement EITI and resolve issues arising from EITI reports, for example Nigeria's inter-ministerial task force to address issues arising from NEITI reports. Established institutions such as Ghana's Chamber of Mines, have also adopted transparency norms in their common practice. Meanwhile, the mere intention of joining the EITI has influenced institutional change in countries, for example Uganda's nascent oil and gas laws and subsequent public debate. To date, it has been more difficult to institutionalise EITI at the local level, e.g. in Nigeria's Bayelsa State, though there are increasing examples of efforts to do this (Aguilar *et al.*, 2011).
- **EITI reports** are an obvious and important output from the process. However, the extent to which they can influence tangible outcomes is limited. Delays in auditing processes can create the impression that EITI data are out of date and therefore of limited use in policy discussions. The quality of data has also been problematic. Despite the auditing requirement, member states and companies do not always produce complete and reliable data (Dykstra, 2011; Gillies, 2011; Ravat and Ufer, 2010). Moreover, the public and legislators in some participating countries may not even be aware of the EITI, which significantly limits its ability to enact positive change (Aaronson, 2011). Nigeria's first EITI report, published in 2006 (covering 1999–2004), was considered the 'gold standard of

global EITI' by the World Bank (EITI, 2012), but Nigeria still has poor human development indicators and sits at the lower end of the Corruption Perceptions Index (Transparency International, 2014). Countries can gain the reputational benefits of participating in EITI but report to minimal standards (as in the case of Azerbaijan). Civil society observers note that local citizens living in resource extraction communities rarely gain access to EITI reports, and they are indeed frequently too technical to be of use to local people. We explore this question more in the case studies and in Section 5.1.

- **Role of civil society:** Key outcomes from EITI processes include civil society capacity building and empowering the public to hold the government and private sector to account (Van Alstine, 2014). The EITI Rules (latest version, EITI, 2011b) and the new EITI Standard (EITI, 2013a) have increasingly been providing CSOs with greater opportunities to push the EITI agenda towards issues that are of importance to civil society and communities. The main way for domestic civil society to engage with EITI processes – and to build their own capacities – is through the MSG. Often NGO coalitions emerge, such as in Azerbaijan, Nigeria, Ghana, and Kazakhstan, in order to build capacity and adequately represent civil society views. Further activities include workshops, e-petitions, community meetings, radio and television discussions, and memorandums. In countries such as Azerbaijan and Kazakhstan, EITI provides almost the only platform for CSOs to engage around the same table with government and industry. On the other hand, a lack of strong domestic civil society may hinder the effectiveness of revenue transparency and as a result transparency becomes an end in itself, not the means to better development outcomes and anti-corruption. Foreign aid programmes have tried to build capacity through the empowerment of NGOs, but as Ottaway and Carothers (2000: 308) highlight, 'the development of NGOs does not equal development of civil society'. In some participating countries, while civil society may be present in the MSG, the elite government and corporate representatives still hold power (Aaronson, 2011; Smith *et al.*, 2011). Intimidation and harassment of civil society and media remains a significant issue in some countries (Dykstra, 2011; Global Witness, 2014). Indeed, as van Riet (pers. comm.) highlights: 'As per the Standard the EITI is supposed to open up space for civil society beyond the MSG to create national debate and while quite a few countries are making progress it is very worrying that in quite a few others this space is shrinking rather than increasing'. Moreover, while CSOs have been empowered by the EITI process in some cases, there is little evidence to suggest that the general public in implementing countries have been similarly empowered, least of all the local host communities of resource extraction projects.
- **Strong private sector support** in-country can help to ensure longer-term government commitment. A key driver for companies is to demonstrate clearly to the international community that they are supportive of greater transparency – and therefore responsible companies. Industry also argues that it welcomes a level playing field, especially in countries with weak governance regimes (Scanteam, 2011). A key challenge is to ensure that smaller companies are also brought in to

the transparency debates and obligations: this may be the contractors and suppliers of larger companies or junior companies that are less exposed to the reputational drivers and/or have less capacity in-house to address such issues. Some companies (e.g. Statoil in Kazakhstan, Tullow Oil in Uganda) have supported in-country initiatives in their early stages, in reflection of the parent company's commitment to good practice. Yet international companies tend not to support the expansion of the EITI mandate within a country once it is established, as our case studies from Azerbaijan and Kazakhstan indicate, instead following the government lead along with national industry players. Moreover, while supporting EITI on the one hand, companies might oppose other transparency initiatives. ExxonMobil, Chevron, BP, Statoil and ConocoPhillips, who sit on the board of EITI, are also members of the American Petroleum Institute, which mounted a legal challenge to the Dodd–Frank Act in 2012. This challenge – which Statoil later withdrew from – succeeded in forcing the US Securities and Exchange Commission (SEC) to review the rules accompanying the act, including the requirement to make company payment reports available to the general public. It is not yet clear whether the SEC will make the suggested amendments to the rules or re-issue them as they are with a stronger justification (Oxfam America, 2013). Thus, despite strong engagement at the national level, it is not clear the extent to which some companies are truly committed to informing and empowering the general public, nor is the extent to which they are committed to transparency and accountability with their local host communities.

- **Assistance from international partners** is critically important, including technical assistance, training, advocacy, and funding for various civil society and government initiatives. Key donors, IFIs and international NGOs include the World Bank (technical assistance fund), the PWYP Coalition, Revenue Watch Institute, GIZ, DfID, IIED, the Soros Foundation, the Open Society Foundation, Global Witness, and the European Bank for Reconstruction and Development (EBRD). The EITI secretariat is also a key international organisation which provides technical assistance. For donors such as GIZ and DfID this support may dovetail with their various bilateral and regional programmes and link with other initiatives such as the Open Government Partnership (OGP). IFIs and international NGOs may engage on issues of particular relevance to local communities, such as provision of information on individual projects, public finance reforms, disclosure of social investment payments and support for civil society participation. However, some civil society observers complain that donors and international organisations lack understanding of how civil society works and have their own agendas; international partners may come in and take over capacity and funding from local groups.[6] In addition, donor funding can be fickle. In Azerbaijan and Kazakhstan a number of donors have pulled out over recent years, as has been the case since the mid-2000s in Uganda. Nevertheless, without donor pressure and support, the quality of EITI implementation and subsequent outcomes may be weak, hampering opportunities to reach local communities.

6. This was evident in discussions during sessions at the Sydney EITI conference in May 2013.

## 3.3 IMPLICATIONS OF THE NEW EITI STANDARD

From the above discussion it is clear that one of EITI's primary limitations is the lack of understanding and even ambition by its proponents to identify how revenue transparency can lead to substantive societal impacts, particularly for local affected communities (GIZ, 2011; IEG, 2011; Scanteam, 2011). EITI strategies are predominantly process oriented, e.g. seeking adoption and validation of EITI status and/or demanding increased revenue transparency, as opposed to identifying the causal mechanisms that will lead to effective development outcomes (Acosta, 2011). The extent to which transparency initiatives are a means to an end (i.e. societal change) versus an end in themselves remains a relevant question (ibid; Kolstad and Wiig, 2009). A key challenge has been to develop a process that strives to meet the objectives and live up to the values that sit at the core of EITI, ensuring that transparency actually does lead to societal change and better development outcomes, including at the local level (O'Sullivan, 2013; Ospanova *et al*., 2013; Scanteam, 2011). The Scanteam (2011) review concluded that if EITI were more in line with its own principles and if it had more focus on strategic partnerships beyond the sector, it would be more likely to reach its objectives. The new EITI Standard (EITI, 2013a) is an effort to address the issues raised by Scanteam and others.

Up until the adoption of the new EITI Standard in June 2013, the EITI had focused quite narrowly on seeking publication and verification of company payments and government revenues from the extractives sector. However, international advocacy organisations, such as PWYP, in partnership with domestic NGOs, have lobbied implementing countries and companies to broaden the EITI's remit to engage more directly with areas beyond revenue transparency alone – including revenue expenditure, contract transparency and fair taxation – and to make these transparency interventions mandatory (Rich, 2013). The requirements established in the new EITI Standard are summarised in Box 2.

Of particular significance for our analysis are: the requirement to consider the national objectives of EITI implementation within national MSGs – in essence, developing a country-level theory of change, which could focus on promoting local development goals; and the requirements for disaggregated reporting (i.e. information on discrete projects), subnational transfers, and social expenditures, which should increase the relevance of the disclosed information in the eyes of local affected communities. The requirement for machine-readable data will also make information more accessible to some, while the civil society protocol continues to support civil society participation. The new EITI Standard is important especially for implementing countries such as Azerbaijan that have not gone beyond the bare minimum in reporting requirements. For example, the new Standard finally provides Azerbaijan's MSG with the mandate to implement disaggregated reporting, which had been opposed by industry participants on the MSG.

Subnational implementation was incorporated into the EITI Rules of 2011 (EITI, 2011b), which introduced the requirement for payments and receipts of payments from companies to subnational government entities, where material was to be disclosed and reconciled in EITI reports. The new EITI Standard goes one step further and now requires subnational transfers between national and subnational government entities to be disclosed in EITI reports, where these are material and required by law. This is significant, as in many countries these payments are much greater than the direct payments from companies to subnational entities (Aguilar *et al*., 2011). We discuss subnational implementation further in the Ghana and Nigeria case studies (Sections 4.2 and 4.3 respectively) and in Section 5.2 below.

It is also worth noting of course, that major oil and gas developments are increasingly taking place offshore, which often affects how a local community is defined, though communities may be affected by onshore facilities and pipelines and potential impacts on fisheries. There is still also the issue of equitable distribution of revenues throughout countries and regions. Furthermore, while focusing on the importance of local-level expenditure it is also important to retain an eye on national-level social investment spending (e.g. on major infrastructure) which has an impact on local-level as well as national-level development outcomes – and which may also face issues of misspending.

## BOX 2: NEW REQUIREMENTS IN THE 2013 EITI STANDARD

Changes incorporated into the new EITI Standard (EITI, 2013a), include the following:

1. **Setting own objectives:** a country's work plan will have a much more significant role. MSGs in each country are required to set their own implementation objectives – what they want to achieve, and how they plan to realise these objectives. This ensures that the EITI is well grounded in the national dialogue about how their natural resources are governed – and should in theory allow for countries to incorporate local development benefits into their planning targets.
2. **Presenting the context:** EITI reports must contain basic contextual information including: production figures; ownership of licence holders (disclosure of beneficial ownership is 'encouraged'); revenue allocations into state, local, or other accounts; description of the fiscal regime (disclosure of production contracts is 'encouraged').
3. **New disclosure requirements:**
   - **Comprehensive and accurate disclosures:** full government disclosure of all revenues received from the extractive industries; agreed procedures for assuring the disclosed data.
   - **Disaggregated reporting** by individual payment type, company, and government agency and by project (consistent with US/EU requirements). This will allow host communities to gain access to specific information about the projects being implemented close to them.
   - **State-owned companies:** financial transfers between state-owned enterprises (SOEs) and other government entities; revenues collected on behalf of the government, including from the sale of the state's share of production; SOE expenditure on social services, public infrastructure, or fuel subsidies; level of SOE ownership in companies operating in the country.
   - **Subnational transfers:** transfers from central government can be a much larger source of revenue for subnational entities than taxes and fees collected from companies locally; these should be reported where mandated by law and where material. This is important for local communities seeking information about the money coming into their region.
   - **Social expenditures by companies** (where these expenditures are legally or contractually required): this is a key priority for local communities, where these expenditures may be significant within the local context, including where they may create paid work for implementation of social projects.
   - **Payments from transit:** where countries collect significant revenues from transporting oil, gas, and minerals (e.g. via pipelines), the government is required to disclose the revenues.
4. **Annual activity reports:** now required of all implementing countries, not only those that are compliant – to include reporting on progress with meeting the EITI requirements as well as efforts to achieve the objectives set out in their work plans.
5. **Improved EITI validation procedures:** to improve the quality, efficiency, and consistency of validation assessments, validation will be procured and managed by the International Secretariat rather than by implementing countries. Compliant countries will be revalidated every three years rather than five.
6. **Simplified and restructured:** the old EITI Rules (2011b) were revised and restructured into the new Standard with the aim of making the framework clearer and more logical. A new 'civil society protocol' has been added, which retains the wording on government support for civil society participation that was welcomed in the 2011 rules.
7. **Making the data machine-readable**: countries are encouraged to make their data available in machine-readable formats so that citizens, journalists, and analysts can use the information to analyse, visualise, and compare it with other data sources.

Sources: Moberg (2013), EITI (2013a)

# FOUR
# ANALYSIS OF CASE STUDIES: EITI PROGRESS AND LOCAL BENEFITS

These case studies provide insight into EITI implementation in four implementing countries: Azerbaijan, Ghana, Nigeria, and Kazakhstan, and in efforts to increase transparency in one country – Uganda – that is yet to sign up. The aim is to discuss overall implementation, as well as the extent to which the case-study country has been able – or will be able – to 'localise' EITI implementation, making it more relevant and meaningful for local communities affected by the extractive industries. This analysis may also offer some ideas on how EITI itself might be adapted to strengthen its local relevance.

Table 1 below compares the five case study countries in order to make some broad comparisons.

Mineral and oil rents as a percentage of GDP are still relatively low in Ghana and Uganda compared to other sub-Saharan African countries, such as Nigeria, Angola, or Equatorial Guinea (World Bank, 2013). However, Ghana has recently become a significant oil producer and Uganda will follow in the next few years (Van Alstine, 2014; Van Alstine *et al.*, 2014).

In many post-Soviet states, including Kazakhstan and Azerbaijan, post-independence development has been driven (indeed made possible) by hydrocarbon and mineral resource exploitation. Yet, while their positions on the Human Development Index (HDI) have improved, they still have huge inequalities internally (especially between urban and rural populations) and they are placed low on the Corruption Perceptions Index (CPI) and the Democracy Index. Their economies still suffer from a lack of diversification; and often it is the resource-producing regions that suffer most from poverty and inequality, as well as environmental degradation (Ahmadov *et al.*, 2013; Ospanova *et al.*, 2013).

Azerbaijan and Nigeria remain in low places on the CPI, despite being pioneering EITI-implementing countries in their own way. Azerbaijan was the first country to become compliant, while Nigeria's reporting is seen as a benchmark of good EITI reporting, going over and above minimum requirements. In 2012 both countries were at joint 139$^{th}$ of 176 on the CPI, though Azerbaijan has since risen to 127$^{th}$ place, while Nigeria has dropped to 144$^{th}$ out of 177.

Of the case-study countries, the 'resource curse' appears to be most apparent in Nigeria, which is highly resource dependent, with a very low HDI rating – although Nigeria has recently become Africa's biggest economy after recalculating its GDP (Out-Law.com 2014). This raises the question of how the country is benefitting from its excellent EITI reporting, and whether the benefits of EITI can indeed be understood from analysing global indexes such as the ones that we have chosen for our table. As Scanteam (2011) suggest, the benefits of EITI are unique to each country, and can only really be understood at the national and local levels.

Sections 4.1–4.5 explore each of our case-study countries, with the aim of providing a picture of overall implementation progress, and also highlighting aspects of implementation that either indicate effective 'localisation' of EITI (or other similar initiatives), or indicate a need for greater 'localisation' and some possibility of how this might happen.

## TABLE 1: CASE STUDY COUNTRIES

| COUNTRY (POPULATION) | RESOURCES | EITI STATUS | RESOURCE RENTS AS % OF GDP, OIL/GAS/MINERALS* | HDI, 2012 (OF 187) | CPI, 2014 (OF 177) | DI, 2012 (OF 165) | RGI, 2013 (OF 58) |
|---|---|---|---|---|---|---|---|
| Azerbaijan (9.2 million) | Oil, gas | Compliant (2009) | 41.9/3.1/0.1 | 82nd | 127th | 139th | 28th |
| Ghana (25.2 million) | Oil, gas, gold | Compliant (2010) | 3.2/0/9.6 | 135th | 63rd | 78th | 15th |
| Nigeria (160 million) | Oil, gas, minerals | Compliant (2011) | 32.9/2.1/0 | 153rd | 144th | 120th | 40th |
| Kazakhstan (17.7 million) | Oil, gas, minerals | Compliant (2013) | 27.5/2.5/0.1 | 69th | 140th | 143rd | 19th |
| Uganda (34.7 million) | Oil, gas | Considering joining | 0/0/0 | 161st | 140th | 94th | N/A** |

*World Bank Development Indicators (World Bank, 2011).

**Uganda is not included in the RGI as resource rents are not yet a significant percentage of GDP.

Sources: UNDP (2013c), Transparency International (2013), The Economist Intelligence Unit (2013), RWI (2013f)

### KEY

| | | |
|---|---|---|
| **HDI** | Human Development Index www.hdr.undp.org/en/statistics/hdi | Compiled by the United Nations Development Programme; measures life expectancy, education, and living standards in 186 countries |
| **CPI** | Corruptions Perceptions Index www.transparency.org/cpi2013 | Compiled by Transparency International; measures the perceived levels of public sector corruption in 177 countries and territories |
| **DI** | Democracy Index https://www.eiu.com/public/topical_report.aspx?campaignid=democracyindex12 | Compiled by the Economist Intelligence Unit; measures electoral process/pluralism, civil liberties, functioning of government, political participation, and political culture in 167 countries. |
| **RGI** | Resource Governance Index www.revenuewatch.org/rgi | Compiled by the Revenue Watch Institute; measures institutional/legal setting, reporting practices, safeguards/quality controls, and the enabling environment in 58 countries |

## 4.1 AZERBAIJAN

Azerbaijan lies in the oil-rich Caspian Sea region. A country of 9.6 million (CIA, 2013a), Azerbaijan's economy is highly dependent on its oil and gas resources. In 2012, oil revenues made up 73.1 per cent of the state budget, while oil and oil products made up 92.6 per cent of exports (Ibadoglu *et al.*, 2013). As of January 2013, Azerbaijan has proven crude oil reserves of around 7 billion barrels and proven natural gas reserves of around 35 trillion cubic feet (EIA, 2013a). In 2013, the Southern Gas Corridor pipeline route was approved to take gas from Azerbaijan's offshore fields through Turkey and Italy to Europe (BP, 2013; Kyriakoulis, 2013).

The financial crisis of the late 2000s revealed the economy's vulnerability to oil price fluctuations (Ahmadov *et al*., 2013; RWI, 2013a). Azerbaijan's key challenge is to continue its efforts to diversify its economy by stimulating competition and attracting more foreign investment in non-oil sectors (Ahmadov *et al*., 2013; EBRD, 2012). Overall, Azerbaijan has benefited from its oil and gas production since independence in 1991. Poverty fell from 45 per cent in 2003 to 11 per cent in 2009, according to government statistics (RWI, 2013a). However, the country remains at the lower end of the Corruption Perceptions Index – at joint 127th out of 177, while press freedom and freedom of expression have deteriorated in recent years (ibid).

The State Oil Company of Azerbaijan Republic (SOCAR) is wholly owned by the government of Azerbaijan and is responsible for production, refining, pipelines, imports, and exports. It participates in all international oil and gas consortia. SOCAR itself produces less than 20 per cent of total output; around 80 per cent is produced by the BP-operated Azerbaijan International Operating Company (AIOC) from its offshore fields (EIA, 2013a), passing through the Baku–Tbilisi–Ceyhan pipeline to European markets.[7] Much of the income from oil and gas production flows to the State Oil Fund of Azerbaijan (SOFAZ), which has accumulated more than USD 35 billion to date. It spends the money directly through its own budget and via transfers to the public budget. SOFAZ complies with reporting standards and achieved a ranking of 14th out of 23 countries in the Revenue Watch Institute index for sovereign wealth funds (RWI 2013a). It is criticised more for lack of oversight of expenditure than poor revenue collection and reporting (Wallwork, 2013).

### 4.1.1 Implementing EITI – drivers and progress

The government of Azerbaijan made the commitment to join EITI in London in June 2003. The main motivation was to project the image of a transparent government, so as to improve foreign investment prospects and relations with western companies and other global institutions. SOCAR seeks to become publicly listed, and it is important to be seen as responsible and transparent. The company has already begun to adopt international financial reporting standards, influenced by BP and other international oil companies operating in the country. The government sees EITI as a potential instrument for initiating political reform. The 'Arab Spring' effect has provided an additional incentive for the government to open up more and address people's concerns (Ospanova *et al*., 2013). In February, 2009 Azerbaijan became the first country to pass the EITI validation process and achieve the status of compliant country.

To date, Azerbaijan has published 17 reports.[8] The latest was published in June 2012, covering the fiscal year 2011. The government of Azerbaijan has ensured that all oil, gas, and gold mining companies are involved in the reporting process. However, the scope of these reports has not expanded over time, despite attempts by NGOs

7. AIOC is a consortium of 10 petroleum companies that have signed extraction contracts with Azerbaijan. The consortium is led by BP and includes Chevron, Statoil, Turkiye Petrolleri, ExxonMobil, and SOCAR. BP is the largest foreign investor and has been involved in Azerbaijan since 1992. AIOC is involved in the development of the offshore Azeri–Chirag–Guneshli (ACG) oil and gas fields and the Shah Deniz gas field (EIA, 2013).

8. The 2012 EITI report is now available at: www.eiti.az/index.php/en/reports/2012/507-eiti-annual-report-2012-2

to push this. Although all of the 26 oil and gas companies in the country participate in the EITI process, only a few, notably BP, have been reporting payments individually, and despite civil society efforts to promote disaggregated reporting, the government showed little interest in supporting this prior to the approval of the new EITI Standard (Ahmadov and Wilson, 2012; Oxfam America, 2013) . Companies stated they would comply with disaggregated reporting only if the EITI Rules required it. Following the adoption of the new EITI Standard in 2013, this is now the case, which Azerbaijani NGOs see as a landmark outcome from the Sydney conference. The MSG is still negotiating the full terms of reference for the next reconciliation report which has to meet the new EITI Standard.

Contract transparency has been less of an issue in Azerbaijan; following a decision of the MSG in 2012, all contracts must now be put up on Azerbaijan's EITI country website.[9] Azerbaijan started out with good intentions on contract transparency, and civil society representatives reported that from 2003 they were provided with copies of all contracts for them to review (PWYP, 2014). However, in 2009 the government disappointed these expectations by signing two major contracts without public notice (PWYP, 2009). This failure to meet the expectations around transparency, despite going through the motions, has been dubbed 'zombie transparency' by the NGO Open Oil (Wallwork, 2013).

After validation in 2009, the government appeared to lose interest in EITI implementation. Validation is due again in July 2015, which will allow it to take place under the new Standard (EITI, 2014a). This follows presidential elections in October 2013, the results of which provided an indication of how far Azerbaijan has progressed on democracy. The Parliamentary Assembly of the Council of Europe (PACE), who observed the 2013 elections, reported that 'overall around election day we have observed a free, fair and transparent electoral process' though adding that 'freedom of expression remains a serious concern' (Peter, 2013). Moreover, the fact remains that the balance of power has not shifted – the President Ilham Aliyev was re-elected for a third five-year term (before his death in 2003, Aliyev's father Heydar had ruled since 1993).

### 4.1.2 Civil society empowerment

Civil society empowerment has been a key outcome of the EITI process in Azerbaijan. From the beginning of the EITI process in Azerbaijan, local NGOs set up a coalition. In 2004, the coalition included 32 NGOs; by 2013 they numbered 160 (Ospanova *et al.*, 2013). This NGO coalition now has representatives on the MSG, and has therefore secured its place together with the government and companies in developing EITI in Azerbaijan, although the MSG did not meet from the outset (Aaronson, 2011: 46). Moreover, observers note that consensus-based decision-making procedures have frequently blocked progress in making decisions on controversial topics (such as disaggregated reporting) (Ahmadov and Wilson, 2012). Furthermore, some civil society participants in EITI have complained that they feel they are not equal partners in the multi-stakeholder process, while government participants have been losing interest (Global Witness, 2014).

9. However, only 5 out of 26 production-sharing agreements have been put up on the EITI website to date. See: www.eiti.az/index.php/en/senedler-2/agreements.

The NGO coalition is active in the EITI process, prepares statements on the EITI reports and publishes regular EITI information bulletins. It has also organised various public meetings on the EITI, and has hosted regional conferences for Caspian and Central Asian neighbours. Baku has become an important centre for EITI training and capacity building for civil society and government, through the establishment of the Eurasia Extractive Industries Knowledge Hub at Khazar University, which was set up in 2010 in collaboration with the Revenue Watch Institute (Khazar University, 2014). The hub serves Central Asia and the Caucasus, and has a stated aim to strengthen oversight bodies, including parliaments, the media, and CSOs, and to assist subnational governments in managing natural resources more effectively by providing access to existing knowledge and innovation, and mainstreaming these into practice.

Despite increased levels of support and involvement in EITI processes, NGOs would like to see these processes result in faster change. Azerbaijan has still not delivered on key objectives of reducing corruption and inequality in the country. NGOs do not entirely trust the government, though they acknowledge that EITI has enhanced their ability to engage in debate on revenue management with both government and industry (Ospanova *et al*., 2013). Yet despite the government's engagement with NGOs within the MSG, there is an ongoing shift towards greater repression of civil society outside of the EITI process, including difficulties in officially registering NGOs and a legal requirement established in 2013 for CSOs to disclose all their funding sources or face fines of up to USD 9000 or the confiscation of property (Civil Society Forum, 2013).

On 17 March 2014, opposition leaders Ilgar Mammadov and Tofig Yagublu received prison sentences of seven years and five-and-a-half years respectively for 'inciting violent riots', after visiting the northern city of Ismayili to report on riots that took place in January 2013 (and were reportedly brutally dispersed by government forces). Mammadov and Yagublu have been critics of the country's leadership and judicial institutions in the past. The Institute for Reporters' Freedom and Safety (2014) considers the verdict and their 12-month detention to date to be a breach of international standards and has called for their immediate release. The arrests in 2013 prompted international organisations to contact the EITI board with their concerns about civil liberties in Azerbaijan. The US State Department and the European Union have both criticised Azerbaijan's human rights record, particularly in relation to freedom of expression, use of force against journalists, arbitrary arrest, police violence, and limitations on NGOs (Global Witness, 2014).

### 4.1.3 Local-level EITI implementation in Azerbaijan

Galvanising momentum for local-level EITI implementation or engaging local people in EITI discussions, or even dissemination of EITI information at the local level has been difficult in Azerbaijan. The majority of the population do not have any interest in EITI information because there are no direct and positive links between EITI and the living standards of local people (Ahmadov and Wilson, 2012). As a key EITI activist noted at the Sydney conference, it is very challenging to disseminate the EITI message to the regions, given the lack of freedom of expression and assembly: the transparency debate should not only take place within the confines of the MSG – the general public needs to be engaged, but regional events cannot be organised without permission from regional government (Ibadoglu, 2013).

### 4.1.4 Linkages with other initiatives

There is great potential for EITI to engage more closely with other national-level initiatives. For instance, Azerbaijan is a member of the Open Government Partnership (OGP), a multi-country initiative involving 64 countries. It was set up in 2011 to provide a platform for those wishing to promote government transparency and accountability in their countries, through collaboration between government and civil society.[10] In Azerbaijan, the National Action Plan for the Promotion of Open Government (2012–2015) was approved by Presidential decree in September 2012. It includes commitments to improve access to information and to improve e-services and transparency in the extractive industries, among other commitments. Civil society groups have taken part in two networks, the National Budget Group (see below), which involves nine CSOs, and the Anti-Corruption Network, which involves 28 CSOs. A monitoring report covering the implementation of the National Action Plan for the Promotion of Open Government in the period 2012–2013 concludes that, while transparency in the extractive industries is one of the commitments that has been implemented relatively well, 'citizen engagement and more specifically, commitment related to "Enlargement of the public participation in the activity of the state institutions" is currently the weakest one' (ERC, 2013: 18). The Baku Hub also provides training on OGP as well as EITI (Ahmadov, 2014).

International partner organisations could stimulate better linkages between initiatives that they are involved with in Azerbaijan. For example, the Revenue Watch website lists a number of initiatives that they engage with. These are relevant to EITI but tend to operate separately from the EITI MSG or NGO coalition (RWI, 2014b). One of these, is the above-mentioned National Budget Group. This is an alliance of economists and practitioners that promotes public participation in the national budget process, recommends budget policy reforms, and advocates for more effective implementation. It also provides expert analysis to government officials and training for parliamentarians and civil society in participatory budgeting and expenditure monitoring (National Budget Group, 2013).

Another initiative that RWI is involved with is Azerbaijan's Civic Response Network, which assists in the resolution of citizen grievances through monitoring, research, and audits of corporate and government decisions that affect resource extraction communities in five regions – Ganja, Salyan, Hajiqbul, Balakhani and Siyazan. The network is based loosely on the Alaskan model of regional citizen's advisory councils, established following the Exxon Valdez oil spill of 1989 to promote informed public participation and oversight of extractive industry activities.[11] International organisations supporting these initiatives could consider the potential value of building linkages between them (including with EITI) and take steps to support those linkages through their own activities.

10. The eight founding governments were: Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, and the United States. See www.opengovpartnership.org.

11. See www.pwsrcac.org.

A further way to expand outreach opportunities for EITI might be to build linkages with the stakeholder engagement efforts of extractive companies. For example, BP has set up public information centres at local libraries to provide information about employment opportunities, community support programmes, and channels for grievance resolution (Wilson and Blackmore, 2013). Observers argue that these initiatives could usefully be expanded to bring information on oil and gas projects to a wider local audience, and this might include information on EITI.

### 4.1.5 Outlook

Azerbaijan's NGOs are now focusing on building momentum for EITI re-validation in 2015. Gubad Ibadoglu, the EITI NGO coalition coordinator in Azerbaijan, observes that there are two critical actions ahead: to approve a new memorandum of understanding (MoU) for the MSG; and to start a new phase of EITI reporting. Ibadoglu (pers. comm.) notes that there has been some disagreement between EITI stakeholders around the new MoU. The NGO coalition made several proposals, four of which were adopted by the MSG, including public disclosure of MSG meeting protocols and incorporating the development of EITI-related legislation into the MSG work plan (the NGO coalition has already drafted an EITI law).

The next phase of EITI reporting needs to take into account the requirements of the new EITI Standard, and so new templates must be agreed for the government, international companies, the state oil company SOCAR, and 'contextual information'. There have been some disagreements around the reporting templates proposed by the NGO coalition. These have been broadly approved by the auditor, but the companies' templates are considered too detailed by non-NGO stakeholder groups on the MSG.

The final version of the MoU will be approved during the next MSG meeting in April 2014, and will probably be signed by all parties even if the reporting templates are not ready.

Above and beyond the technical implementation of EITI, however, it is clear that Azerbaijan has much more to do to ensure that EITI brings about broader, lasting change within the country, not least in relation to free speech and the ability to challenge those in power. The translation of transparency into sustainable development outcomes depends on the ability of civil society and the public to use the information to hold their government and industry to account without the risk of imprisonment. A key question for EITI stakeholders is to what extent efforts to implement EITI should be encouraged and lauded, and to what extent should broader issues of civil society repression be seen as a failure of EITI to achieve its aspirations, or at least as an obstacle that ought to be tackled with some urgency.

## 4.2 GHANA

A country of 25.2 million located in West Africa bordering the Gulf of Guinea, Ghana is the darling of donors with an enviable record of a peaceful and stable democracy since 1992 when a new constitution was adopted and multiparty politics was restored. With economic growth rates consistently exceeding 6 per cent over recent years, it is making good progress toward becoming a middle-income country by 2015 (CIDA, 2011). Ghana ranks fifteenth out of 58 countries on the 2012 Resources Governance Index, sixty-third out of 177 on the 2013 Corruption Perceptions Index, and seventy-eighth out of 165 on the 2012 Democracy Index. However, it remains at 135$^{th}$ on the 2012 Human Development Index with per capita income of only USD 1940 (UNDP, 2013b; World Bank, 2013).

Although the number living in extreme poverty (defined as under USD 1.25 per day) has dropped from over 50 per cent to under 27 per cent in the last 20 years (and is on track to be eliminated by 2025) there is risk of uneven development in Ghana (Simons and Drummond, 2013). A challenge is for growth to spread uniformly so that inequality is not entrenched. Nearly 60 per cent of people inhabiting the vast savannah region of northern Ghana still live in extreme poverty (ibid).

Ghana's primary export commodities include cocoa, gold, timber, and now oil. Gold production contributed 9.6 per cent to GDP in 2011 and in the same year it was the eighth largest producer in the world. Oil production, which only began in 2010, grew to to 3.2 per cent of GDP in 2011 (World Bank, 2013). Estimated oil reserves stand at close to 700 million barrels. As of December 2010, commercial oil production began in the Jubilee Field, with production averaging 66,000 barrels per day in 2011, which was nearly 50 per cent below the predicted plateau of 120,000 barrels per day (Tullow Oil, 2011). Since late 2012, the Jubilee Field has produced at a rate of around 110,000 barrels per day. Further exploration is ongoing and it is likely that Ghana will produce over 200,000 barrels per day by 2016 (Africa Progress Panel, 2013).

### 4.2.1 Implementing EITI – drivers and progress

Transparency in Ghana's extractives sector began to be institutionalised in the early 2000s. It goes hand-in-hand with privatisation and liberal reform that the mining industry has undergone since the 1980s and 1990s. In fact, prior to EITI implementation, members of the Chamber of Mines (i.e. the mining companies) voluntarily disclosed to the media information on royalty, tax, and ground rent payments (Nguyen-Thanh and Schnell, 2009). Ghana's embrace of the liberal norms of governance by disclosure, coupled with a relatively free media and long tradition of civil society engagement in public affairs has provided the space for transparency in resource governance to flourish (Star-Ghana, 2011).

Ghana announced it would pilot EITI in its mining sector in June 2003 (EITI, 2011a), and was in fact the first candidate country to engage only with its mining sector, as most other pilot countries were oil and gas producers (Nguyen-Thanh and Schnell, 2009). It was one of the test cases for adapting the EITI Rules to conventional mining. With regards to inputs, development partners (such as GIZ, DfID and Norway's Oil for Development programme) and international NGOs (e.g. PWYP, Revenue Watch Institute, Oxfam America) provide financial and technical support, not just to civil society, but also to government and members of parliament.

With regards to outputs, the Ghana EITI (GHEITI) process has produced eight reports covering payments, receipts, disbursements, and validation on the mining and more recently oil and gas sector from 2004 to 2011. Ghana's reports have been comprehensive; they have found some deviations in payments and receipts in revenues as well as shortcomings in disbursements of revenues to the subnational level. Like Nigeria, one of the primary challenges in Ghana is a significant delay in auditing reporting data. There tends to be a three-year lag, e.g. the 2008 audit report covers data from 2005. This reduces the ability of parliament and civil society leaders to hold government to account and improve pro-poor development outcomes from resource rents (Nguyen-Thanh and Schnell, 2009).

In 2009, the GHEITI National Steering Committee began meeting with officials from the ministry of energy to discuss extending it to oil and gas. This expansion was completed in August 2010, when the GHEITI national steering committee was restructured to include oil, gas, and mining stakeholders (EITI, 2011a). In October 2010, Ghana's mining sector was successfully validated and designated EITI compliant (ibid). Early in the implementation process, Ghana demonstrated candidate-country best practice by extending its EITI report requirements to subnational revenue flows (Nguyen-Thanh and Schnell, 2009). The first GHEITI reports to include the oil and gas sectors in addition to mining were published in February 2013 for the years 2010 and 2011.

Interestingly, the debate on contract transparency in Ghana's oil sector highlights the important influence of the private sector and extraterritorial legislation. The Jubilee Field contracts were disclosed in 2011 not because of civil society or donor advocacy but because Kosmos disclosed its contract together with its joint production agreements with other Jubilee partners in May 2011, which was a requirement of its Initial Public Offering with the US Securities and Exchange Commission (SEC) (RWI, 2011). This action forced the Ghanaian government and Tullow Oil, with further civil society pressure, to also disclose these contracts (Public Agenda, 2011). This pattern of companies pre-empting governments is not uncommon.

### 4.2.2 Civil society empowerment

In 2004, civil society groups adopted a framework for engagement with GHEITI which aligned with the PWYP global campaign for revenue transparency. PWYP-Ghana was formally launched in 2006 with 50 members and an agreed plan of action to engage in capacity-building activities in the mining regions. In 2010, another key civil-society actor emerged to unite civil society to proactively engage with Ghana's nascent oil and gas sector, the Civil Society Platform on Oil and Gas (CSPOG). This broad coalition has about 120 members including civil society organisations, academic and research institutions, and individuals. PWYP-Ghana actually hosts the CSPOG secretariat. This complementary interaction between PWYP-Ghana and CSPOG has been crucial for the institutionalisation of the resource governance agenda in Ghana (Van Alstine, 2014).

The GHEITI process has included numerous information-dissemination and capacity-building activities since 2003, not only for civil society, but also for other key stakeholders including the authorities and the media. Each time a GHEITI report is due to be published workshops are called for consultation and dissemination (Van Alstine, 2014). There are numerous capacity-building and information-sharing workshops on the nascent oil sector, often spearheaded by PWYP-Ghana and CSPOG, which target members of parliament, traditional and municipal authorities, the media, and the public. E-petitions, community meetings, radio and television discussions, and memorandums allow participants to lobby governing actors and potentially hold them accountable. GHEITI also focuses on capacity building for parliamentarians. For example, they organised a sensitisation and dissemination workshop in November 2013 at the Elmina Beach Resort for members of the parliamentary select committees of mines and energy, finance, and public accounts.

Ghana has emerged as a central node in a regional extractive industries capacity-building process. The regional Africa Extractive Industries Knowledge Hub is hosted by the Ghana Institute of Management and Public Administration (GIMPA), in partnership with the RWI. GIMPA organised a roundtable meeting on contract transparency in April 2011 (Public Agenda, 2011) and has been hosting 'summer schools' since

2009 on the governance of oil, gas, and mining revenues, which have been co-sponsored by GIZ.

### 4.2.3 Local-level EITI implementation in Ghana

While a number of EITI participating countries have the potential to implement the initiative at the subnational level, Ghana is one of the countries with the most experience. It committed to implementing EITI at the subnational level within its mining sector when it joined EITI in 2003 (Aguilar *et al*., 2011). In Ghana, subnational governments receive direct payments from extractive industry companies through property rate tax and ground rent payments, as well as indirect payments through royalty transfers from central government. Nine per cent of the royalties get distributed to the local level, including district assemblies (4.95 per cent), traditional authorities (1.8 per cent) and customary land-title holders or stools (2.25 per cent).

A number of barriers hinder the disbursement and accountability of subnational royalty transfers in practice. First, there have been shortages and delays of payments from the Internal Revenue Service to the Office of the Administrator of Stool Land, and second, only some of the district assemblies use reporting templates that capture receipt and utilisation of disbursements at the local level (Aguilar *et al*., 2011). Traditional authorities and stools have not been providing information on how much they receive at what time.

Instilling change in social practices at the local level is difficult. For example, the RWI with Ghanaian partner organisations, the Integrated Social Development Centre (ISODEC) and the Institute of Local Government Studies (ILGS), carried out a project from 2009–2011 in the Asutifi District. The project sought to improve local government's policies and practices for collection and expenditure of mining revenues (Boampong, 2012). The project succeeded in building awareness and trust among stakeholders, improving local participation in the district's development plan, and enhancing collaboration between the mining company, Newmont Ghana Gold Limited (NGGL), and the local government. Yet no substantive gains were made on bringing transparency and accountability to the management of mining revenues, i.e. no new systems and practices were put in place. A key barrier was local politics, with traditional chiefs resisting calls for increased public accountability, as there was little demand for transparency from the communities (Boampong, 2012). The Asutifi project highlights the resistance to international norms of transparency and accountability at the local level and, in particular, within traditional institutions.

It is interesting to note that although GHEITI wants to extend the subnational distribution of royalties to the oil and gas sector, the petroleum management bill does not allow subnational earmarking of revenues (GHEITI, pers. comm.). It will be interesting to observe whether oil-bearing communities in Ghana's Western Region have less incentive to engage with EITI than do mining communities.

### 4.2.4 Linkages with other initiatives

In Ghana, there is potential to link subnational implementation of EITI with implementation of social investment projects by companies, using similar institutions and multi-stakeholder forums to oversee implementation. The case of NGGL's voluntary social investment initiative, the Newmont Ahafo Development Foundation (NADeF), demonstrates that there are challenges around transparency and accountability of social investment spending, especially where revenues from mining royalty disbursements are combined with the social investment funds. NADeF has received criticism from the local authority for not consulting the district's development priorities before providing support to particular projects. Observers are also concerned that local elites, such as chiefs, are chosen by NGGL to sit on NADeF committees thus skewing the approval of project proposals (Boampong, 2012). The Newmont case highlights the need for greater citizen participation and demand for accountability at the level of disbursement of social investment funds.

#### 4.2.5 Outlook

A key outcome of GHEITI's outputs and processes was evident when, quite remarkably, Ghana received four times more from its petroleum and mining sectors in 2011 than it did in 2010. This increase in revenues is due to the start of oil production in the Jubilee Field, an increase in tax revenue from Ghana's mining sector, and higher gold prices (EITI, 2013b). EITI recommendations have influenced policy reforms in Ghana which have included substantial royalty and corporate tax rate reforms (ibid). Also, the Petroleum and Revenue Management Bill, among other oil legislation, was passed in 2011. Demonstrating the institutionalisation of transparency and accountability, the civil society platform CSPOG successfully lobbied for broader participation in the Public Interest and Accountability Committee which is tasked with monitoring compliance with the revenue law. Civil society leaders hailed Ghana's Petroleum Revenue Management Act as one of the best in the world because of its transparency provisions and citizen oversight.

## 4.3 NIGERIA

With a population of over 160 million, Nigeria is Africa's most populous country. Following independence in 1960, Nigeria was ruled mainly by the military (apart from 1960–66; 1979–83 and 1993) and has experienced sustained democratic government only since 1999: 'As a result, Nigeria has had to build not only the mechanisms but also the culture of accountability' (EITI, 2012:1).

Nigeria has enjoyed total earnings of over USD 400 billion in oil revenue since the early 1970s (RWI, 2013c). An interesting new development is Nigeria's recent overhaul of its GDP data, which means that GDP now stands at US$510 billion, compared to US$262.6 billion in 2012, making it the largest economy in Africa (Out-Law.com, 2014). In the 2013 Human Development Index, however, Nigeria ranks 153rd out of 187 (UNDP, 2013a). Over half of all Nigerians live in poverty (EITI, 2012). The combination of poverty, poor governance, and environmental damage has resulted in violent conflict in the oil- and gas-producing Niger Delta, in the south of the country. In 2008, conflict reduced oil production by 20 per cent. Nigeria ranks 144th out of 177 countries on the 2012 Corruption Perceptions Index, 120th out of 165 countries on the 2012 Democracy Index and fortieth out of 58 countries on the Resource Governance Index.

Before discovering oil in 1956, Nigeria had been a major exporter of agricultural products to the rest of Africa (Keblusek, 2010). Today, Nigeria is Africa's leading oil producer and among the top 10 oil producers globally (RWI, 2013c). The economy is heavily dependent on oil and gas, which accounted for more than 95 per cent of export earnings and more than 75 per cent of federal government revenue in 2011 (EIA, 2013b). Nigeria has approximately 37.2 billion barrels of proven oil reserves as of 2011, and 180 trillion cubic feet of natural gas – the largest gas reserves in Africa (ibid). Nigeria also has reserves of aluminium, gold, tin, iron ore, coal, niobium, lead, and zinc (EITI, 2012).

The Nigerian National Petroleum Company (NNPC) was set up in 1977, primarily to oversee the regulation of the Nigerian oil industry. In 1988, the government divided NNPC into 12 subsidiary companies, and its direct upstream and downstream involvement in the industry increased. Today, the majority of Nigeria's major oil and gas projects are managed through joint ventures between NNPC and international oil and gas companies (EITI, 2013b).

### 4.3.1 Implementing EITI – drivers and progress

Nigeria signed up to EITI in 2003, becoming the first African country to do so; the then-President Olusegun Obasanjo established the Nigerian Extractives Industry Transparency Initiative (NEITI) in 2004. The initial impetus for EITI implementation in Nigeria is related to a significant period, Nigeria's democratic transition. When Obasanjo became the first democratically elected president in 1999 there were great expectations, domestically and internationally. He saw the need for increased transparency to reduce corruption, stimulate foreign investment, bolster financial independence, reduce donor assistance, and rebuild the trust of the Nigerian people (EITI, 2012). The decision in 2004 to implement EITI in Nigeria was taken as part of a larger agenda of economic reform, improving public sector management, and tackling corruption, which civil society groups had been calling for (Scanteam, 2011). Another motivation was the need to appeal to international creditors and donors in order to reduce Nigeria's massive debt, while also keeping on board his supporters among the elite (EBRD, 2012; Keblusek, 2010; O'Sullivan, 2013). Donors such as DfID and international organisations such as RWI continue to support EITI implementation. RWI has supported subnational implementation in the Niger Delta (see Section 4.3.3), while DfID is also supporting the work of the related Facility for Oil Sector Transparency (FOSTER) (see Section 4.3.4).

The NEITI Act of 2007 in Nigeria sought to 'insulate the process from the vagaries of politics through legislation and institutionalisation' (Mitee, 2013). The Act was passed just before Obasanjo stepped down as president and was the first example of a country institutionalising the EITI process in law. It has been a benchmark for other countries, notably Liberia, which used NEITI as a model for its own EITI legislation, while in 2012 Ghana started a consultation process on the GHEITI Bill, which was drafted in 2011 (GHEITI, 2012). The implementation of the NEITI Act also significantly expands EITI's remit in Nigeria. For example, the Act provides for criminal sanctions against individuals or organisations, companies or government departments, which fail to comply with the NEITI Act and enshrined audit regulations. Unreconciled financial flows are referred to the Economic and Financial Crimes Commission (EFCC) for investigation and possible prosecution.

NEITI has completed a substantial number of outputs, often being praised highly for the quality of reporting. It has conducted four cycles of audits covering 13 years from 1999; oil revenues have been published from 1999–2011. NEITI's first report (1999–2004), was published in 2006 (NEITI, 2006). It exceeded the minimum EITI criteria, and was considered the 'gold standard of global EITI' by the World Bank. It included information on resource-production figures, financial, physical, and process audits; data was disaggregated by company and payment type and it mandated participation of all companies regardless of size (Darby, 2011; EIA, 2013a; Scanteam, 2011). However, subsequent audits (2005 and 2006–2008) have covered irregular time periods, and have suffered delays (Scanteam, 2011). This has contributed to the broader impression that EITI information is useful, but often out of date and therefore of limited use in policy discussions.

Expanding the EITI into other resource sectors is another important trend. Nigeria is in the process of expanding lessons from NEITI into its mining sector. For the first time, NEITI is conducting a large study to collect baseline data on the sector, along with a comprehensive audit for 2007–2010. This expansion is part of the larger minerals sector reforms which began in 2006. As discussed in section 4.2, Ghana expanded EITI implementation from its mining sector to its nascent oil and gas industry in 2010, and proponents of the GHEITI Bill seek to extend the current initiative to include forestry and fisheries. Liberia was the first country to incorporate forestry into EITI, and in the light of the EU transparency and accounting directives, this could be a more popular trend in future.

NEITI's second report, published in 2009, identified major financial discrepancies, mis-paid taxes, and system inefficiencies (Keblusek, 2010), including USD 4.7 billion owed by NNPC to the national government, for payments of domestic crude – a payment that NNPC argued was a 'government subsidy'. NEITI has reconciled most of the discrepancies in payments and is leading the ministerial-level effort to remedy the identified lapses (EITI, 2012). As a result of this report, Nigeria launched a value-for-money audit to investigate whether reconciled payments nevertheless hide corruption.

Following the ground-breaking first audit in Nigeria and the passage of the NEITI Act, progress slowed significantly and there did not appear to be the political will to follow through with action on the issues raised by the audit, and Obasanjo's interest shifted back to his domestic priorities (EBRD, 2012; O'Sullivan, 2013). The political commitment of Obasanjo's successor, Yar'Adua was even weaker and implementation stagnated. Following citizens' protests at efforts to remove fuel subsidies in 2012, the current government, led by President Goodluck Jonathan, committed to greater reforms, with the imminent passage of the Petroleum Industry Bill (PIB), the establishment of various committees (the Petroleum Revenue Special Task Force, headed by former anti-corruption czar, Nuhu Ribadu), and remediation of issues in the NEITI reports (Yahaya, 2013).

However, continued delays and the seemingly waning government interest in the passage of the PIB, the refusal to act on key reform findings made by the committees, very little action on NEITI report recommendations and, most importantly, a marked increase in revenue leakages connected with spending linked to the 2015 elections, all point to weakening of reform resolve in Nigeria. It took several months and some degree of civil society pressure to persuade Jonathan to approve a new National Stakeholder Working Group (NSWG) – the name given to Nigeria's MSG – after the tenure of the old NSWG expired in January 2012. A new board was only inaugurated in August 2012, creating a vacuum of about eight months that significantly delayed NEITI activity. However, the appointment of Ledum Mitee, a trained lawyer and respected activist with strong CSO credentials, was welcomed (Yahaya, 2013).

### 4.3.2 Civil society empowerment

In 2005, the government established the NSWG with representatives from civil society, industry, and federal and state governments to oversee the EITI process and build capacities through regular meetings and workshops. As civil society representation was low, a 10-member civil society steering committee was also set up to coordinate civil society activities and engagement with NEITI (RWI, 2013c). An inter-ministerial task team was set up to address issues arising from the NEITI reports.

NEITI activists have been very active in influencing legislative processes, especially in regard to the drafting and redrafting of the PIB (Federal Republic of Nigeria, 2012). Recommendations were published in the NEITI magazine *Open Audit* which is a key source of public information on the NEITI process and related information. The PIB includes provisions to strengthen the role of EITI and deepen the process. The assumption is that by opening more kinds of documents and data to public scrutiny, the PIB would improve incentives for performance, attract investment and financing, and protect against illicit practices (Sayne, 2011).

At a special session devoted to Nigeria at the 2013 EITI conference, there was a lot of discussion around civil society capacities. A number of barriers were identified which include: the need for civil society to understand issues throughout the whole value chain; limited use of information, despite improvements in analytical capacity; lack of coordination and collaboration among NGOs (see also Keblusek, 2010; PWYP, 2009). However, in the same session a leading EITI activist in Nigeria defended civil society capacities, arguing that 'there is more capacity in civil society than anywhere else; but there is a lack of understanding of how civil society works' (Mitee, 2013). As one reviewer of this paper noted, there may be potentially very influential CSOs (e.g. opposition political parties or labour unions) that would have an obvious interest in the EITI process, but which EITI secretariats, by virtue of their link to government, might be reluctant or unable to engage. Thus, the EITI processes are not open to all, as is also evident in our other case-study countries.

In general, better civil society organisation is needed, so as to develop shared messages and build understanding, and to share resources and capacities, without the need to agree on every aspect of EITI implementation. Some stakeholders argue that donors sometimes undermine civil society capacities by pursuing their own agendas, while international organisations are accused of using up the available donor funding to implement work themselves.

NEITI organises roadshows in the country's six geopolitical zones, disseminating the NEITI audit reports to CSOs, community leaders, state government officials, subnational government officials, and traditional leaders. The roadshows also provide stakeholders with an opportunity to network and interact. NEITI also tries to build dialogue with the Nigeria Governors' Forum – a coalition of all Nigerian governors – with the aim of familiarising them with the NEITI process and its implications (Aguilar *et al.*, 2011). In 2013, DfID launched an initiative called Follow the Data, which encouraged and supported the design of mobile phone apps to help people in EITI countries – including Nigeria – to understand the EITI data better, for example through questions and answers or scenarios (Awolowo and O'Keefe, 2013). However, these efforts to disseminate information do not address the challenge of tailoring the information to local needs.

Another key issue raised at the Nigeria session in Sydney was the lack of representation of local constituencies and feeding back to those constituencies. NEITI's engagement with civil society is presently limited to nationally based NGOs. The NSWG includes representatives of the six Nigerian geopolitical zones, as formalised in the NEITI Act, but none of the regional representatives are NGOs.

On the other hand, one Nigerian reviewer of this paper suggested that, in line with complaints from Liberia and Congo, perhaps there is too much focus on capacity building for civil society. There needs to be more capacity building support to governments, for example in contract negotiation or understanding fiscal issues, rather than the narrow focus of supporting CSOs to apply external pressure. In addition to this, it was suggested that Nigerian and other African consultants be used, rather than foreign fly-in/fly-out development types – a suggestion that fits quite well with the 'localisation' theme.

### 4.3.3 Local-level EITI implementation in Nigeria

Nigeria has been preparing for more systematic subnational EITI reporting, as stated in the NSWG working plan (Aguilar *et al*., 2011). Yet the government lacks a clear strategy for this, while state and local government workers lack the capacity to implement new measures (RWI, 2013c). In Nigeria, 65 per cent of government revenues come from the oil and gas sector, while only nine out of Nigeria's 36 states produce oil and gas. Forty per cent of the revenue allocation to states from the Federation Account is divided between the nine producing states. Since 2003, the federal government has disclosed revenues collected by subnational governments, but this is not matched with disclosure by the governments themselves. Companies have reported on subnational payments, including taxes, but government receipts have not been reported (Aguilar *et al*., 2011).

According to the NEITI Act, NEITI has the right to ask for disclosure of payments received and revenues paid by states and local governments (Article 3e) and the duty to build the capacity of local governments with statutory responsibility to monitor revenue payments made by extractive industry companies (Article 3g); it also formalises the participation of subnational governments in the NSWG, though no locally based CSOs are represented on the NSWG. NEITI is now seeking to develop a framework for monitoring company payments to the Federation Account and to audit the distribution of revenues to states and local governments. Plans to shift data transfer to a central technology platform are expected to improve the flow of communication between the centre and the state and local levels (Aguilar *et al*., 2011).

A subnational pilot initiative has also been implemented in Nigeria. The Bayelsa Income and Expenditure Transparency Initiative (BEITI), which focuses on expenditures in addition to EITI's focus on revenues, was initiated through an engagement between the Bayelsa State governor and the RWI. The governor was driven by reformist goals for his state, including addressing corruption and revenue 'leakage' (Weate, 2012). A secretariat was set up, and two local NGOs were supported to take part. The Ministry of Justice drafted the BEITI Bill with technical assistance from RWI and then sent it to the multi-stakeholder group for review. A BEITI report has been started, but remains incomplete. A website has been created, although it is rarely updated.[12] Four years after its inception, the BEITI Law has still not been ratified by the state legislature.

Weate (2012) suggests that a lack of political will may have ultimately delayed the implementation of BEITI, although the lack of coordination among donor agencies was also a factor. Civil society activists suggested that Governor Sylva may have wanted the prestige but not the consequences associated with the reforms, while his state officials may have been even less committed to opening up their books (Ushie, 2013). While a charismatic leader is important, multiple players and whole departments need to buy in to EITI to make it work. And while NGOs have been effective in articulating their demands for good governance, this has yet to translate into improved transparency and accountability within the government and its policies (Weate, 2012). Public spending is still no more effective – public funds are not directed at sectors that can generate local growth and employment, the budgeting system is still opaque, and budget management is poor (Ushie, 2013).

#### 4.3.4 Linkages with other initiatives

A supplementary transparency initiative, the DfID-funded FOSTER programme (Facility for Oil Sector Transparency) was launched in 2010 and is managed by Oxford Policy Management, in partnership with the Revenue Watch Institute and the Centre for Study of the Economies of Africa.[13] FOSTER carries out political economy research and analysis to inform, influence, and shape oil-sector reforms and sector transparency. It also supports the NEITI process, and advises on legislative developments such as the Petroleum Industry Bill, and it provides technical support to NEITI and key institutions responsible for governance of the oil and gas sector, including the ministry of finance, the upstream and downstream industry regulators, and the National Oil Spill Detection and Response Agency (NOSDRA), the National Assembly, petroleum unions, business associations, the media, think tanks, and advocacy groups. FOSTER is not the only initiative working in Nigeria on resource-governance issues beyond NEITI's focus on revenues. While there is insufficient space to write about all of these in this paper, it is worth viewing the website of the Nigerian Natural Resource Charter.[14]

A key transparency issue that is barely touched by the efforts of EITI is oil theft – or 'bunkering' – in the Niger Delta. Katsouris and Sayne (2013) identify three key areas the international community could focus on: controlling physical movements of oil; regulating oil sales; and what Katsouris and Sayne dub 'following the money'. The latter is where EITI might play a role, particularly in the light of the new EITI Standard. Although the type of information the EITI provides may not directly address oil theft, disclosure of beneficial ownership or limitations placed on use of shell companies could have value (ibid). With the disclosure of licence-holder ownership required by the new Standard and beneficial ownership being 'encouraged', EITI may be starting to expand into areas of relevance to the oil-theft agenda. President Goodluck Jonathan has indeed urged NEITI to act on

12. See bayelsa.gov.ng/beiti

13. See the FOSTER web page on the Oxford Policy Management site: www.opml.co.uk/projects/facility-oil-sector-

14. See: nigerianrc.org transparency-and-reform-nigeria-foster.

the issue of oil theft, and inaugurated an inter-ministerial committee in October 2013 to ensure synergy between NEITI's investigations and recommendations on this issue for Nigeria's oil sector (African Manager, 2013). Possible actions include providing more information on oil theft in the public domain, and to commission more detailed reports on the topic.

### 4.3.5 Outlook

NEITI outputs and activities have contributed to greater public awareness, civil society oversight and government/industry accountability, as indicated by the legal and institutional changes noted above, the number of NGOs involved in the civil society coalition, and Nigeria's vibrant contribution to the 2013 Sydney conference (Mitee, 2013; Yahaya, 2013). The level of civil society's awareness of and desire to engage in energy issues is also evident in their involvement in debates on the Petroleum Industry Bill and the Freedom of Information Bill, and indeed in the fuel-subsidy protests of 2012. When Nigeria set up a sovereign wealth fund in 2011 with USD 1 billion in seed money from the state, the governance of this fund became a source of broad public debate, thanks to the environment created by EITI (EIA, 2013b; EITI, 2012).

Yet Weate (2012: 1) observes, 'while civil society's understanding of public financial management systems and ability to analyse and critique government planning and budgeting processes has increased, this awareness has not yet translated into improved transparency and accountability of resource revenues or increased government capacity and performance'. Institutions such as the Independent Corrupt Practices Commission and the Economic and Financial Crimes Commission (EFCC) have made some progress in recent years. The EFCC has recovered more than USD 5 billion since 2006, and has successfully prosecuted 82 people. Nigeria has made improvements in its ranking on Transparency International's Corruption Perceptions Index in recent years (EIA, 2013b) but still lies at joint 144$^{th}$ out of 177 (which is in fact a drop in the rankings since 2013 when it lay at 139$^{th}$ (Transparency International, 2013). Some observers believe that the prolonged delay in passing the Petroleum Industry Bill is an indication of ongoing resistance to accountability and effective governance of the oil sector.

## 4.4 KAZAKHSTAN

Kazakhstan has the largest oil reserves in the Caspian Sea region, estimated at 30 billion barrels of oil and 1.3 trillion cubic feet of natural gas, while oil and gas account for around 50 per cent of government revenues (EITI, 2013c). Oil production is largely from two major onshore fields, Tengiz and Karachaganak, which produce about half of Kazakhstan's total output, and the offshore Kashagan Field, which began production in September 2013. Kazakhstan is also the world's largest uranium producer and has extensive resources of chromium, lead, zinc, manganese, copper, coal, iron, and gold (ibid).

Kazakhstan's hydrocarbon and mineral resources helped the country out of recession at the end of 2009 (Ahmadov *et al.*, 2013; Chapman, 2011). GDP increased by 7.5 per cent in 2011 and 5 per cent in 2012, thanks to rising commodity prices (CIA, 2013a). Kazakhstan is placed 69$^{th}$ of 187 on the Human Development Index, 14 places below Russia and 13 places above Azerbaijan (UNDP, 2013a). Yet the country is still overly dependent on the extractive industries (CIA, 2013a; Collier and Hoeffler, 1998). Moreover, evidence suggests there are significant differences between urban and rural populations, with the latter exhibiting an increasing income gap, higher incidences of poverty, poor access to quality education and training, and fewer development opportunities over the last decade, with 20 per cent of the rural population living in poverty (UNDP, 2013a; CIVICUS 2011a). The government is currently making efforts to diversify the economy in sectors including transport, pharmaceuticals, telecommunications, petrochemicals, and food processing (CIA, 2013a).

The government established the National Fund of the Republic of Kazakhstan as a stabilisation fund in August 2000; the fund's capital comes from tax payments, royalties, bonuses, and revenues from production-sharing agreements (Tsalik, 2003). The fund has been criticised for being accountable predominantly to the president and lacking the required checks and balances that could be offered by a greater role for parliament in its governance (ibid). According to the Revenue Watch Institute, 'the fund operates with little to no transparency' and 'there is little evidence that it is designed or managed in a way that ensures it can help alleviate poverty or improve the country's human development indicators' (RWI, 2013e). There is no law governing the fund, as it was set up by presidential decree and not by an act of parliament. And, while parliament does approve expenditure through the formal budget process, transfers are aggregated and deposited along with other budget transfers into one account at the ministry of finance, making it impossible to track how the funds are spent. The national bank publishes regular reports on the fund, but these contain no information on individual company payments to the fund (ibid).

In general the government is seen as prioritising economic progress over democratic reform (CIVICUS, 2011a). President Nazarbayev has been in power since independence in 1991, and the constitution was amended in 2007 to allow him to stand for re-election an indefinite number of times. The April 2011 presidential elections – in which Nazarbayev won 95 per cent of the vote – were criticised for not meeting international standards (CIVICUS, 2011a).

### 4.4.1 Implementing EITI – drivers and progress

The government of Kazakhstan signed up to EITI in 2005 – despite strong opposition from the country's mining lobby (Najman *et al.*, 2008). Kazakhstan achieved candidate status in 2007, after which there was a period when interest waned and responsibility for championing EITI passed between government departments; however, there has been renewed interest in recent years (RWI, 2013e). Kazakhstan now appears to be keen to demonstrate its green credentials and leadership on the international stage (Ospanova, 2014), and the country successfully achieved EITI validation in October 2013 (EITI, 2013c).

The reasons for Kazakhstan signing up to EITI in the first place included the desire to enhance the reputation of this highly centralised resource-based country internationally, as well as addressing domestic pressures to increase public scrutiny over oil-revenue management, following high-profile, resource-related corruption scandals in the early 2000s (LeVine, 2007; Najman *et al.*, 2008). Labour conflicts took place in the northwest Tengiz Fields in 2004–2006 and the 2011 oil-worker riots in Zhanaozen, western Kazakhstan – in response to reported cases of corruption and labour abuse (Yessenova, 2012). These led to increased public awareness even in the more remote host communities of the need for greater accountability in the oil and gas sector.

Commitment to EITI is contained in a memorandum of understanding signed by the government, companies, parliamentarians, and civil society, and currently under review. Kazakhstan's Law on Subsoil and Subsoil Use No. 291-IV, 24 June 2010, Art. 76 (6 and 22) requires all companies to observe the MoU and submit data confirmed by an audit report in compliance with EITI requirements (EITI, 2013c). Major steps have been made in public-finance monitoring as part of EITI since 2005, and in developing the 2009 tax code (Ospanova *et al*., 2013). The government has also been promoting various anti-corruption initiatives, including a Strategic Anti-Corruption Plan (2010–2014) to reduce corruption among junior and senior civil servants, and a Sectoral Anti-Corruption Programme (2011–2015) to improve anti-corruption legislation, simplify the process of setting up a business, and to qualify for membership of the Council of Europe's anti-corruption group, Groups of States against Corruption (GRECO) (Business Anti-Corruption Portal, 2013).[15] Yet despite these efforts, in 2013 Kazakhstan dropped from 133rd to 140th place in the Corruption Perceptions Index (alongside Uganda) (Transparency International, 2013).

Since Kazakhstan signed up to EITI, revenue-reporting mechanisms have been slowly progressing. Early in the process of designing reporting templates, the MSG, known in Kazakhstan as the National Stakeholder Council (NSC), incorporated some innovations such as special attention to companies' social investment spending and disaggregated reporting by company, before this became mandatory under the new EITI Standard (Ospanova *et al*., 2013).[16] This indicates a certain responsiveness on the part of the government and industry towards the demands and interests of civil society members of the NSC.

A key obstacle to effective implementation has been the frequent change of the EITI 'champion' within government, from the Ministry of Energy and Mineral Resources (MEMR) (through the Committee on Geology and Subsoil Resources), to the Ministry of Oil and Gas (following a major government reshuffle in 2010–11), to the Ministry of Innovation and New Technologies, where EITI sits today (Hart Resources, 2013). This has been further compounded by a lack of resources and coordination among CSOs – there have been complaints by some of 'monopolisation' by others (Ospanova and Wilson, 2013). In Kazakhstan, companies have also not pushed for expansion of the EITI agenda. However, the 2010–2011 national EITI reports covered more than 170 companies and provided disaggregation by company, and are now publicly available online.[17]

### 4.4.2 Civil society empowerment

Kazakhstan civil society is not well developed, with high levels of government control and a limited number of truly independent organisations. Limitations on civil society include state control over the right to hold meetings and demonstrations; patronage exerted to co-opt selected civil society organisations to deliver the government agenda; and the reduction in foreign funding since Kazakhstan achieved middle-

15. For more on GRECO, see www.coe.int/t/dghl/monitoring/greco/default_en.asp

16. Kazakhstan's EITI reports are available on the website of the Committee of Geology and Subsoil Use within the Ministry of Industry and New Technologies: www.geology.kz

17. See www.geology.kz

income country status (CIVICUS, 2011a). There have also been reports of physical attacks on human rights defenders, writers, and journalists (CIVICUS, 2013). In late 2011, police violence against the oil workers who took strike action in Zhanaozen (see above) led to the deaths of 14 protestors, with thousands injured, and numerous political arrests (Lillis, 2011).

One of the benefits of EITI implementation in Kazakhstan is the way it has enabled civil society groups to build their capacities to participate in public finance oversight and contribute to the process. MEMR invited NGOs to join the NSC in the initial stages of EITI implementation. A coalition of 43 groups came together under the name Oil Revenues Under Public Oversight, which signed the MoU in December 2005. MEMR also included in the NSC a second representative civil society group, the Civic Alliance of Kazakhstan (Hart Resources, 2013). In 2011 a new NGO Coalition, known as the Dialogue Platform, was established, and has since become the official civil society representative on the NSC. It is made up of four civil society groupings, including the original two associations, plus the Young Professionals of Kazakhstan and Kokshetau Unions Confederation – a total of 582 organisations in total (ibid).

In the initial phases, NGOs were active in disseminating information on EITI, but expressed concern about lack of analysis of capacity constraints and lack of financial support for their participation (ibid). While initially focusing primarily on companies' social investments, the NGO coalition has expanded its scope to the whole revenue-management process (Ospanova, 2014). Since 2007, public awareness has grown along with the depth of engagement of NGOs in the EITI process. There have been various opportunities for capacity building, through workshops and seminars organised nationally and regionally by international organisations (including the Soros Foundation-Kazakhstan, the RWI, PWYP, and IIED) and training at the Eurasia Extractive Industries Knowledge Hub in Baku. The NSC has working groups that discuss formal procedural issues of the EITI validation process, and other more targeted issues of interest to local citizens, such as how national reporting can address social investment spending (RGI, 2013). The World Bank and Soros Foundation-Kazakhstan have enabled CSO participation and sponsored the NSC. For example, the Soros Foundation-Kazakhstan has supported public opinion surveys, the preparation of popular versions of EITI reports (for years 2010 and 2011) and infographics for the 2012 report, and support for conferences and strategic meetings of civil society organisations (Hart Resources, 2013).

The Dialogue Platform represents many but not all NGOs in Kazakhstan and there have been some divisions within the civil society community, while the NGO coalition itself has suffered from internal splits and a lack of cohesion that have weakened NGO influence (Ospanova *et al*., 2013). Moreover, due to the sensitivity of some of the EITI issues, only non-radical NGOs have tended to be invited to the table to ensure government buy-in, while donors have focused on supporting high-capacity NGOs (largely based in the major cities Almaty and Astana) in their efforts to build civil society capacities to deal with highly technical matters such as public finance analysis, resource contracts and tax management (ibid). In this way, civil society groups from the more outlying regions (located closer to the extraction projects themselves) have generally been neglected (Hart Resources, 2013).

### 4.4.3 Local-level EITI implementation in Kazakhstan

There has been considerable discussion about local-level implementation of EITI in Kazakhstan. Government and civil society representatives feel that EITI should be made more relevant to the extractive regions, which spread out across Kazakhstan from the oil regions of the west and the south, to the mining regions of central and eastern Kazakhstan. There is a recognised need for better communication of the content of EITI reports to local citizens and more effective engagement between civil society, industry, and government to address issues of concern for local populations (Valigura, 2014; Hart Resources, 2013; Ospanova *et al*., 2013; Moberg, 2012). The worker unrest in Tengiz and Zhanaozen also highlighted the importance of building relations between government, industry, and civil society (including unions) at the project level, to address issues and inequalities that could lead to violence (Yessenova, 2012).

A key area of interest for local host communities is how companies' 'social investment' money is spent. Under their investment agreements with the government of Kazakhstan, companies have contractual obligations to spend a certain percentage of their capital expenditure on local development projects. Kazakhstan's EITI reports of 2010–2011 included reports on this social investment spending (Ospanova *et al*., 2013). There have, however, been reports of the misuse of these funds: for example, in Atyrau a simple maintenance job for a school reportedly cost US$5 million (more than the cost of building a new school), while funds that local people wanted to be spent on constructing a hospital were instead spent on a new football pitch (the site of which turned out to be prone to flooding) (Valigura, 2014).

In February 2014, civil society members of PWYP in Kazakhstan met to discuss the potential for applying EITI's multi-stakeholder dialogue approach at the subnational level (Valigura, 2014). Conference participants noted that the inclusion of project-level reporting in the new EITI Standard would enable local civil society to gain access to relevant information. Civil society participants also agreed to disseminate EITI information more effectively to local communities, via consultation, training, public debates, and through the use of social media. At the conference, a plan to establish a subnational MSG in the south-western oil-producing Mangystau Region was announced. This initiative is based on the previous experience of the Mangystau regional administration in setting up a multi-stakeholder council to discuss the effectiveness of revenue expenditure in the region. At that time, the group had no legal decision-making power, which limited its effectiveness. Participants at the conference called for the adoption of a legal framework for subnational MSGs and an official executive body to oversee local-level implementation of EITI.

### 4.4.4 Linkages with other initiatives

In addition to the work towards establishing an MSG in Mangystau Region, there are other subnational initiatives in Kazakhstan that could forge linkages with EITI. This includes work in East Kazakhstan to encourage public monitoring of memorandums on social investments between resource companies and local governments, evaluation of local communities' needs, and work on environmental payments such as pollution fines.

In Kazakhstan, a new law on local governance was approved by the *mazhilis* (lower parliament) in March and the senate in May 2013. The law aims to strengthen local capacities to monitor budget spending, and promote regional elective bodies (*maslikhats*) and multi-stakeholder bodies (public councils and working groups) to facilitate interaction between civil society and regional/subregional authorities (*akimats*), as well as industry, so as to improve public service delivery (Ospanova, 2014). Kazakhstan's regions are starting to develop such initiatives, and are looking to identify and share good practice.

In Kazakhstan, a green economy strategy is being developed at the national level. The greening of the Kazakhstan economy cannot happen without redistribution of the extractive industry revenue stream or without public debate over such issues. This is where lessons from the EITI process in Kazakhstan and convergence – where possible – of ideas on fiscal transparency, industry reporting and multi-stakeholder processes can push the national sustainability or green economy agendas forward (Ospanova, 2014). A key challenge for the green economy debates, like the EITI debates, is how to make them relevant to local people, and how to get local people involved in these debates.

#### 4.4.5 Outlook

The fifth national EITI conference took place in Astana on 9 October 2013, where members of the NSC signed a new MoU. Following compliance in the same month, the NSC is now undertaking a consultation and review process (due to be completed in March 2014) to identify new activities and priorities for the next EITI work plan (EITI, 2014). While the government is no doubt sitting back and taking a deep breath, Kazakhstan's NGOs are gearing up to engage once again in debates. Key areas of interest include monitoring the use of social investment funds; increasing transparency of the national oil fund; streamlining EITI reporting with other existing reporting mechanisms; and creating an online EITI data portal (ibid). The 2012 and 2013 EITI reports are due to be published in 2014 in accordance with the new EITI Standard. Meanwhile, work is underway to establish regional EITI resource centres to increase awareness and public engagement in the regions, and may include support for regional multi-stakeholder groups (ibid).

Like Azerbaijan, Kazakhstan needs to think more about the broader enabling environment for EITI implementation – in particular civil-society freedoms. It will be critical that international efforts to support Kazakhstan's implementation of EITI, seek membership of GRECO, and build a green economy are co-ordinated. It is important that independent CSOs are provided with sufficient independent support (likely to be from foreign funding sources) so that they can provide a counterbalance to the heavily government-supported areas of civil society. International oil and gas companies can also support local-level civil society development through grant support and by engaging in multi-stakeholder dialogue on issues of particular importance to local populations, including social investment and environmental issues.

### 4.5 UGANDA

Although the presence of oil in Uganda's Albertine Rift region has been known since the 1920s, with the first exploration well drilled in 1938 (Kashambuzi, 2010; Miirima, 2008), it was only in 2006 when wildcatters[18] Hardman Resources (Australian), Heritage Oil (Anglo-Canadian) and Tullow Oil (Anglo-Irish) began to drill exploratory

18. 'Wildcatters' refers to prospectors for oil or ores in areas not already known to have proven resources. Source: www.collinsdictionary.com/dictionary/english/wildcatter.

oil wells with flow rates and oil qualities viable for commercial exploitation. Since 2006, the extent to which this newly discovered oil wealth will contribute to the achievement of Uganda's National Development Plan, i.e. 'intertwining sustainable economic growth with poverty eradication' (Republic of Uganda, 2010: 3), has been widely debated. President Museveni heralded this 'new oil' with a paternal response referring to the resource as 'my oil' and reassuring the public that 'the Ugandan oil will be for the present and future generations of Ugandans', and that this would be achieved through 'the most enlightened oil utilisation policy' (New Vision, 2007a). Some pundits have remained optimistic that with proper governance frameworks in place Uganda's hydrocarbon resources can contribute to broad-based development and poverty alleviation (Kashambuzi, 2010; Miirima, 2008; The Economist, 2010). Uganda has yet to sign up to EITI.

However, Uganda is a 'hybrid' state where a veneer of democracy is underpinned by a semi-authoritarian patronage-based regime (Barkan, 2011; Tripp, 2010). Concern has been raised that the speed of oil development will outpace the implementation of both mandatory and voluntary forms of governance throughout the extractive industries value chain (AmanigaRuhanga *et al*., 2011; CSCO, 2010; International Alert, 2009; New Vision, 2007b). The exploration and pre-production stages of oil development have increased tensions, particularly in oil-bearing communities (Van Alstine *et al*., 2014). Although Museveni and the National Resistance Movement (NRM) retained power after a resounding election victory in 2011, questions remain whether the president will run for a fifth elected term in 2016. The promise of new oil may prove too enticing for Museveni to let go of power peacefully. Indeed, stability in Uganda may come under threat through a contested political succession process (Barkan, 2011). Museveni's political coalition may begin to fracture because promised development benefits such as basic social services are stymied due to the increasing costs and corruption inherent in maintaining the regime's vast patronage networks (ibid).

Although Uganda was a 'poster boy' for implementing neoliberal reforms in the 1990s, which paved the way for an era of economic growth and positive donor relations, government–donor relations have deteriorated over the last decade with the government hampered by widespread corruption allegations. For example, in 2012 most EU donors froze aid to Uganda after allegations of embezzlement by the prime minister's office, which is a significant concern for the government given donors contribute 25 per cent of Uganda's budget support (Ford, 2012). The promise of future oil revenues will most likely reduce Uganda's reliance upon donor budget support, but may have negative impacts on governance, as one political analyst observed in 2006: 'But of course, depending on how commercial the oil is, [Museveni's] foreign policy will change. He will no longer need donor money to buy political support' (Muhumuza, 2006).

Although poverty has declined from 56.4 per cent to 24.5 per cent between 1992 and 2010 (World Bank, 2012: iii), Uganda still remains 161$^{st}$ out of 187 on the Human Development Index, 140$^{th}$ out of 176 on Transparency International's 2012 Corruption Perceptions Index, alongside Kazakhstan, and 94$^{th}$ out of 165 on the Economist Intelligence Unit's 2012 Democracy Index. Uganda's exports are dominated by agriculture. It is the most important sector and employs over 80 per cent of the workforce, with coffee, tobacco, and fish accounting for the bulk of export revenues (CIA, 2013b; Revenue Watch Institute, 2013).

Although Uganda has never conducted a national minerals survey, there has been some commercial mining of cobalt, gold, copper, iron ore, tungsten, steel, tin, and other industrial minerals such as cement, diamond, salt, and vermiculite (ibid). The extraction of non-energy minerals has been a very small proportion of export revenues in the past. Although 'legal' gold exports from Uganda grew significantly in the mid-2000s, much of that gold could come from Congolese mines through illegal cross-border trade (Izama, 2007).

With regards to the emerging oil sector, as of 2012 about 40 per cent of the Albertine Rift region has been explored with over 85 wells drilled, with an excellent success rate of close to 87 per cent encountering hydrocarbons (PEPD, 2013). Tullow Oil estimates that there is 1.7 billion barrels of recoverable oil in the Albertine Rift region and the government claims at least 1.2 million barrels are recoverable out of 3.5 billion barrels of oil equivalent in place (PEPD, 2013; Tullow Oil, 2013c). Since 2006, the sector has consolidated as Tullow Oil, now a leading independent company which has branched from exploration into production, acquired Hardman Resources and Heritage Oil's assets in Uganda. Although full production of up to 200,000 barrels per day was targeted for 2015 (Tullow Oil, 2010), this is likely to be delayed until 2018 (Muloni, 2014).

A worrying trend has been a variety of macro-level governance setbacks from 2010–2012. These include corruption allegations towards Tullow Oil and various government ministers in 2010/2011. There was a parliamentary ban in October 2011 on issuing new oil licenses until the 2008 oil and gas policy was implemented, and outstanding issues with the government with regards to tax, licence extensions, and consents for it to purchase the Heritage interests (see e.g. Vokes, 2012). Tullow Oil managed to sign two production-sharing agreements (PSAs) with the government in 2012, which enabled the company to sell two-thirds of its Uganda licences to the Chinese National Offshore Oil Company (CNOOC), a Chinese state-owned oil company which is one of the largest exploration and production companies in the world, and Total, the French major integrated oil company (Tullow Oil, 2013b).

A joint development plan for the Lake Albert Rift Basin was presented to the president in July 2012, and 'constructive discussions are ongoing' between the three operators and the government with the hope the plans are 'harmonised' so the development can begin in 2014 (Tullow Oil, 2013b, p. 6). One of the most contentious issues is if the sweet, waxy crude that is characteristic of the oil-bearing region will be transported via rail or pipeline to a refinery in Mombasa, Kenya (preferred by the operators), or if the crude will be wholly or partly refined domestically (preferred by the government).[19] In June 2013, the government reached an agreement with the oil companies to develop both a 60,000-barrels-per-day oil refinery and a pipeline to transport the crude to a port on the Indian Ocean. Investors are being sought to finance the refinery, while a memorandum of understanding has been signed between Uganda, Kenya, and Rwanda to construct two pipelines across East Africa (PEPD, 2013).

19. This waxy crude will need to be heated in order to be transported by pipeline.

### 4.5.1 Implementing transparency (outside EITI) – drivers and progress

Uganda is an interesting case, as it has not implemented EITI but it does have oil legislation which has been influenced by international norms on transparency. The intention of joining the EITI has influenced Uganda's nascent oil and gas laws and subsequent public debate. For example, the government of Uganda published its national oil and gas policy in 2008 which conforms to international best practice on stressing the importance of transparency and accountability in all aspects of natural resource management. The policy is in fact consistent with the EITI (Veit *et al.*, 2011), and although the government has declared it will participate in the processes and activities of EITI as part of the 2008 National Oil and Gas Policy, little progress has been made. Civil society, in a recent conference on EITI implementation in Uganda, urged government to 'take their leadership role and fast track EITI implementation by appointing relevant officers to oversee the process of implementation' (Global Rights Alert, 2013: 15).

Debates on transparency have dominated oil politics in Uganda even though EITI has not been adopted. With regards to putting the 2008 National Oil and Gas Policy into practice, parliament passed the Petroleum (Exploration, Development, and Production) Bill 2012 (or the 'upstream bill') in December 2012 (see discussion below) and the Petroleum (Refining, Gas Processing and Conversion, Transportation, and Storage) Bill 2012 (or the 'mid-stream bill') in February 2013. The drafting of the Public Finance Bill (or the 'downstream bill') is interpreted as a positive step towards implementing EITI in Uganda as it seeks to provide safeguards on transparency, accountability, and good governance in the management of oil revenues.

But there are concerns. Uganda has an Access to Information Act (2005) which has not been fully implemented, and which may be contradicted by the transparency requirements of the new oil legislation, and there are 'political roll-backs' which are centralising power in the executive branch of government (Veit *et al.*, 2011). For example, many members of parliament and pundits feel that concessions in the upstream bill give the energy minister too much power, 'including authority of granting and revoking oil licenses, negotiating and endorsing petroleum agreements, and promoting and sustaining transparency in the oil sector' (UNIRIN, 2012). Many lawmakers wanted to see these powers held by an independent national oil authority, to provide checks and balances with the executive branch of government. Concern has also been raised that the draft Public Finance Bill has loopholes which fall short in the requirements of the EITI process (Global Rights Alert, 2013).

Interestingly, Tullow Oil voluntarily disclosed payments to the Ugandan government (taxes and fees totalling USD 174 million) in its 2012 corporate responsibility report (Tullow Oil, 2013a). When asked how much CNOOC and Total paid, they both claimed that contractual obligations with the government of Uganda prevented them from disclosing such information (Oil in Uganda, 2013). Tullow's actions demonstrate strong private sector support for EITI in Uganda (at least from one of the operating companies).

### 4.5.2 Local-level implementation in Uganda

There are also questions on subnational implementation of revenue transparency in Uganda. Unlike Ghana, the draft Public Finance Bill has recommended that all oil-producing districts and cultural institutions (the Kingdoms) share seven per cent of oil revenues (Mutaizibwa and Ssekika, 2012).This is an area of contestation, as the Bunyoro Kingdom, which is primarily located in the oil-producing region, has sought 12.5 per cent of oil revenues. The modalities of how revenue sharing within the oil-producing regions will work in practice will be an issue to watch when the draft Public Finance Bill is tabled for further discussion in 2014.

### 4.5.3 Outlook

There are mixed signals as to whether Uganda will pursue EITI candidacy before commercial oil production begins in 2018. The Petroleum (Exploration, Development and Production) Act of 2013 does not include government's commitment to pursue EITI candidacy. The draft Public Finance Bill, being reviewed by parliament in 2014, provides an opportunity for inclusion of clauses on the intention to implement the EITI (Global Rights Alert, 2013). Most promisingly, Uganda's State Minister of Energy, Peter Lokeris, stated at a conference organised by PWYP Uganda in April 2014 that Uganda is set to apply for EITI candidacy (Tenywa, 2014).

Other important factors putting pressure on Uganda (and its operating companies) include the Dodd–Frank Act in the US and the EU transparency and accounting directives (see the introduction). The EU legislation will affect Tullow and Total, but it is unlikely that the companies will have to make their first payments before 2016 given member countries have to implement the legislation first. The Dodd–Frank Act will apply to CNOOC and Total as they are both listed on the New York Stock Exchange (Tullow also trades in the US but due to complex trading arrangements will be exempt from Dodd–Frank) (Oil in Uganda, 2013). In addition to international coalitions on transparency in the extractive industries (e.g. PWYP and RWI), private-sector action and extraterritorial legislation may help sway hesitant or even resistant governments to start the EITI process.

# FIVE
# CONCLUSIONS: SECURING LOCAL BENEFITS FROM EITI IMPLEMENTATION

EITI and PWYP have driven transparency up the agenda globally, to the heart of the G8 and national legislation. The EITI has progressed significantly since its origins in 2002, both in terms of breadth of take-up and quality of implementation. The new EITI Standard is a welcome refinement, which should make the initiative more relevant, reliable, and accessible. Our case studies indicate that institutional reforms, such as legislating for EITI and establishing permanent government committees for overseeing EITI implementation, generate potential for broad-based and long-lasting changes in culture and mind-set. Yet by themselves, these are not enough to ensure substantive societal impacts such as poverty reduction. It will take the combined efforts of different initiatives (including EITI), government agencies, and civil society groups to deliver on the shared aspirations of reducing poverty and corruption and promoting sustainable local development in resource-dependent economies.

But what evidence is there that **'localising EITI' can increase its potential to deliver sustainable development and poverty alleviation objectives within resource-dependent countries?** While we cannot provide definitive evidence that 'localisation' makes EITI more effective, our analysis suggests that EITI will not increase its effectiveness if it continues to remain distant from the everyday lives of citizens. Some key challenges have emerged from our analysis, namely:

- Use of EITI data by local stakeholders;
- Local implementation of EITI; and
- Forging linkages with other initiatives to enhance local outcomes.

In the discussion below, we focus on the above aspects of EITI implementation in our case-study countries and attempt to draw some cross-cutting conclusions that may help to inform future development of EITI and other transparency initiatives.

## 5.1 USE OF EITI DATA BY LOCAL STAKEHOLDERS

A key aim of EITI is purported to be putting information in the hands of the public so that they will **interpret and use EITI data** to hold government and industry to account. But who are the real audiences of EITI and how are they being targeted? How are they responding? Moreover, do they have too much information or not enough information in a format that they can understand? With Dodd–Frank and the EU directives coming into action soon, there will be a significant volume of information (including via EITI) being made publicly available and people need to be able to make sense of it all.

The question is whether the public needs to be better educated about the numbers emerging from EITI audits, or whether it is more a case of needing to 'scratch people where they itch' with EITI information (Mitee, 2013). Our respondents noted that EITI reports are vast and quite boring; people only read the summaries, and even those are not easy to digest. While Global Witness (2014) might argue that local citizens need to know about beneficial ownership, the fact is that many local citizens would not even think to ask. Reaching people with the right kind of information that addresses their particular concerns, and ensuring that they can use it to improve their lives, is a key concern of many EITI stakeholders.

A paper by Shaxson (2009), based on interviews with international and local experts working closely with NEITI, concludes that the main audience to benefit from EITI reports has been oil industry consultants, and that civil society is not a key audience for EITI findings. This would appear to contradict the stated aim of EITI to generate and release information that enables the public to hold government and industry to account. However, questions remain whether the general public is indeed the most appropriate target of EITI reports, whether civil society and the public need to be better educated about the data emerging from EITI audits, or if people need a different kind of information that addresses their particular concerns and ensures that they can use it to improve their lives. Civil society is still seen as a key ‘agent of change’ for EITI, but there is a lack of real understanding about how they can become this in practice.

It is assumed that **empowerment and strengthened capacity** are key outcomes of EITI processes. However, the extent to which this occurs in practice, for both government and civil society, is questioned. The MSGs are key forums through which trust can be built among industry, government, and civil society, but sometimes this form of consensus-based decision making blocks progress. There might be a lack of coordination and collaboration among NGOs and a lack of representation of local constituencies on national MSGs, which hampers the empowering effect of the representative forums. Empowerment and enhanced capacity are often limited to civil society groups based in the national capital, while EITI remains largely irrelevant and unknown to populations in outlying regions.

The extent to which **EITI reports** can influence tangible outcomes is often limited. The new EITI Standard will require more detailed and locally-relevant reporting practices, e.g. disaggregated company data, and contextualisation of data. This will mean countries that have kept reporting to a minimum, such as Azerbaijan, will have to strengthen their EITI reporting practices, which should enhance the influence and relevance of their EITI reports, including for local stakeholders.

EITI regional knowledge hubs, such as those based in Ghana and Azerbaijan, are a key tool for increasing peoples’ understanding of EITI and how to understand and interpret the data. These hubs have achieved a great deal in terms of capacity building of experts and professionals engaged in EITI processes, including civil society, parliamentarians, government, and industry representatives. This has undoubtedly helped national-level processes by increasing capacities and knowledge of participants on the MSGs and other key stakeholders, though participation by representatives of local host communities is limited. The FOSTER programme in Nigeria has enabled greater understanding of EITI data through training, research, and analysis and is another model that EITI could explore to engage local and national experts in the analysis of transparency issues.

Our case-study analysis has revealed that local citizens’ are most interested in topics that are of direct relevance to their lives, such as social investment spending, transparency of social investment contracts, how environmental payments (e.g. from pollution fines) are spent, the content of environmental and social impact assessments, and the true extent of job opportunities (Ospanova and Wilson, 2013; RGI, 2013).

As one of our reviewers stressed, it is important that national and regional dynamics around EITI implementation should reinforce each other. For example, national-level data, findings, and improvements in financial management are all elements that should feed and contribute to the communities to better understand revenue management. National-level CSOs can create 'digested' data that could inform local-level analysis, monitoring, and activism. This is a crucial role of national-level CSOs who may often end up being too focused on the national-level processes and not have time for the process of 'digesting' and feeding back to their constituencies in the regions.

International partners can help to put country data into a broader context by helping to compare national-level data between implementing countries, so as to build understanding of how to promote good practice and avoid bad practice. International partners can also help by providing support to local civil society organisations located outside of the major cities to build capacities to engage more comprehensively in monitoring local revenue and social investment expenditure. Yet frequently, donors and international organisations focus primarily on organisations based in major cities and target already high-capacity NGOs for capacity building. While this may be an obvious way to target limited funds, it does tend to limit the beneficial effect of the international collaboration. The DfiD project Follow the Data focused on mobile phone applications – which may be seen by some to be of limited benefit, though many people in villages, particularly in Africa, often tend to have mobile phones rather than land lines. MSGs could explore more imaginative use of social media and social networks to disseminate EITI data more widely – focusing on data that is of most relevance to the target audiences.

## 5.2 LOCAL IMPLEMENTATION OF EITI

One of the key areas where EITI can be made more relevant to local communities is through expansion to the subnational level. There is no 'one size fits all' solution to subnational implementation, as our case studies indicate. Subnational implementation was incorporated into the EITI Rules of 2011 (EITI, 2011b), which introduced the requirement for payments and receipts of payments from companies to subnational government entities, where relevant, to be disclosed and reconciled in EITI reports. The new EITI Standard goes one step further and now requires subnational transfers between national and subnational government entities to be disclosed in EITI reports, where these are relevant and required by law. This is significant, as in many countries these payments are much greater than the direct payments from companies to subnational entities (Aguilar *et al*., 2011).

There is a strong rationale for subnational EITI implementation. By bringing transparency to the local level within resource producing regions, governance and multi-stakeholder relationships can be enhanced (Aguilar *et al*., 2011: 2). Strengthening local EITI ownership should help maximise sustainable development impacts by helping to tackle fund mismanagement and misallocation at the local level. Moreover, dialogue that takes place between government, industry, and civil society at the local level can address the issues that are of most concern to local people. Subnational implementation can take place not only through official EITI channels, but also through local initiatives that adopt the multi-stakeholder dialogue model, as the experience of Kazakhstan indicates.

Both the Ghana and Nigeria case studies demonstrate the difficulties of trying to instil change in social practices at the local level. The project in Ghana's Asutifi District highlighted the significance of local-level resistance to international norms of transparency and accountability, particularly within traditional institutions. A key barrier has been local politics, with traditional chiefs resisting calls for increased public accountability, given low levels of demand for transparency from the communities. While the project succeeded in building trust among stakeholders, improving local participation in development planning, and enhancing collaboration between Newmont Ghana Gold Limited (NGGL) and the local government, no substantive increase in the accountability of mining revenue management was observed. Similarly, responses to the Bayelsa Income and Expenditure Transparency Initiative (BEITI), shifted from initial enthusiasm, to resistance from traditional institutions. Political commitment waned, particularly among local state officials, while international organisations appear to have been uncoordinated.

In Azerbaijan and Kazakhstan, civil society stakeholders believe that EITI should have more relevance to local regions. In Azerbaijan, the key challenge in disseminating the EITI message to local regions is the lack of freedom of expression and assembly. In Kazakhstan the key challenges are around the size of the country and the ability of civil society networks to operate effectively. A number of subnational initiatives in extractive industry regions are starting to evolve in Kazakhstan that reflect EITI principles, including working groups and public monitoring of social investment spending, while efforts are being made to introduce more formal subnational EITI implementation.

As our case studies demonstrate, and in line with Aguilar *et al*. (2011), revenue transparency at the subnational level is context specific. While it may be desirable to distil general lessons and establish a cross-country common operational framework, subnational programmes cannot necessarily be replicated. Each country's subnational EITI programme will be based on its own regulatory framework and different definitions of materiality for subnational revenue streams, i.e. which will be reported, at what threshold, in which regions or districts. Assessments of impact of transparency and accountability work in the extractives sector are being supported by DfID and others in specific countries. A 'localisation' lens may be usefully applied to such exercises. Defining and measuring impact will be a key topic for further discussion and dialogue (Atkinson, pers. comm.).

However, we can already draw some general conclusions from our case studies. Firstly, subnational implementation is likely to reflect some of the key drawbacks of national-level implementation. A key challenge is in fluctuating political will and the difficulties that leaders face in gaining and maintaining the support of key officials. This challenge will increase if there is no call for transparency from local populations – it is critical that local awareness is raised about the importance of transparency and the potential local benefits. As yet, there is no evidence that subnational implementation of EITI leads to increased accountability of revenue management, reduction in levels of corruption or poverty, or substantive improvements in local living standards.

Like national-level implementation, subnational EITI implementation needs to set clear goals to tackle corruption and poverty, and to improve livelihoods through greater transparency in the extractive industries. These need to be agreed upon by all stakeholders, and progress needs to be measured against these targets. Key priority areas should be identified, such as social investment spending, levels of environmental fines and how they are gathered and spent, and local job creation commitments (as established in contracts). Considerable work needs to be done to increase awareness among local officials and traditional leaders of the benefits of increased transparency and to gain their trust and acceptance of proposed subnational initiatives before they are launched. Efforts also need to be made to increase the awareness of local NGOs and community groups, to provide adequate and appropriate information locally, and to build their capacities to take part in the subnational MSG and related public debates.

## 5.3 FORGING LINKAGES WITH OTHER INITIATIVES TO ENHANCE LOCAL OUTCOMES

Linking the EITI with other transparency, poverty reduction, and sustainable development initiatives may build synergies for pro-poor societal change and create greater relevance at the local level. Often domestic and international issue-based coalitions operate in their ‘silos’, not interacting with one another. At the national level, key linkages might include financial and tax reforms: the linkages between transparency, taxation, and trade in the extractives sector were key themes at the June 2013 G8 summit. In Kazakhstan, finance and tax reforms are not generally subject to wide public discussions and public discussion is limited to the ‘high-capacity CSOs’, but public interest is increasing. At the local level, issue areas of potential linkage might include environmental protection, anti-corruption, and public service delivery.

Linking EITI to other sustainable development and environmental initiatives, such as green economy strategies, could provide important synergies. In Kazakhstan, a key challenge for the green economy debates, like the EITI debates, is how to make them relevant to local people, and how to get local people involved in these debates. A first stage may be to get government ministries (oil and gas, environment) to interact, and then encourage local officials to follow suit. Another opportunity is to make links with efforts to implement legislative reform, such as Kazakhstan’s new law on local governance. One approach may be to establish regional institutions to encourage local stakeholders to engage and debate local issues, with the aim of advising and influencing local government in managing the local economy and natural resources.

Developing linkages between the social investment projects by companies and subnational implementation of EITI, with use of the same multi-stakeholder forums or development of similar institutions, is an area to explore. As the case of NGGL’s voluntary social investment initiative Newmont Ahafo Development Foundation (NADeF), demonstrates, there are challenges around transparency and accountability of social investment spending, especially where revenues from mining royalty disbursements are combined with the social investment funds. The Newmont case highlights the need for greater citizen participation and demand for accountability at the level of disbursement of social investment funds.

Companies operating in resource-bearing regions may also link stakeholder engagement initiatives to EITI efforts. In Azerbaijan, BP set up public information centres at local libraries to provide information about employment opportunities, community support programmes, and channels for grievance resolution. Observers argue that these initiatives could usefully be expanded to bring information to a wider local audience. Given that this is also a key aim of EITI in seeking to have more impact at the subnational level, perhaps this is one key area for collaboration between the national EITI MSG and such private sector initiatives.

International organisations supporting in-country initiatives could consider the potential value of building linkages between them and take steps to build those linkages through their own activities. The case of RWI's collaborators in Azerbaijan illustrates such potential, including possible collaboration between the national budget group that promotes public participation in the national budget process and the Civic Response Network that assists in the resolution of citizen grievances and seeks to promote informed public participation and oversight of extractive industry activities. The EITI has built useful links with broader transparency initiatives such as the Open Government Partnership and the International Budget Partnership, among others.

There are strong potential linkages between EITI and the transparency of impact assessments, with the need to build capacities of local populations to understand and challenge the content of environmental, social, and health impact assessments (ESHIAs). It is important to enable people to work out the true costs and benefits of a project in the context of an ESHIA – and this includes the flows of money between companies and governments, and between national and subnational governments. Similarly, there are potential linkages to the free, prior, and informed consent (FPIC) agenda and the rich history of company–community negotiations. The processes of eliciting FPIC locally requires 'informed' consent, which effectively equates to enabling local people to understand the full information about a project, before making a decision together with the government and industry on how the development will proceed.

There are also project-specific and technology-specific issues which have a strong transparency element. As noted in Section 4.3.4, oil theft in the Niger Delta is a key geographically specific issue that has huge relevance to local communities and is of great interest from a transparency perspective, although transparency alone will not resolve the deep-rooted socio-economic issues that sit at the heart of oil theft. Another example is unconventional gas extraction (e.g. shale gas) and the chemicals used in the controversial extraction process known as 'fracking' or hydraulic fracturing. The chemical composition of fracking fluids is a topic of acute concern to the people living near fracking operations, but in many cases this is considered to be proprietary information.

## 5.4 RECOMMENDATIONS

Below we outline (a) some recommendations and (b) some opportunities for further research, to make EITI more relevant to local communities:

1. **MSGs and international partners should incorporate consideration of local relevance and impact into national EITI theories of change.** National MSGs and international partners need to develop and test out theories of change for implementing countries, focusing on the local relevance of EITI and potential positive impacts on local societies. MSG activities could be designed based on locally-driven planning targets. Donors could support these efforts. Assessments of the impact of transparency and accountability initiatives, such as those being supported by DfID in specific countries, will be useful and lessons should be shared widely.
2. **MSGs and international partners need to make EITI data more relevant to local communities in regard to form, content, and overall accessibility.** MSGs and international partners could explore how to make EITI data relevant to local populations through collaboration with civil society organisations and surveys of affected communities, another area that donors could support. This is also something that companies could support, especially in the host communities where they are working, to build understanding about their project and facilitate informed dialogue.
3. **MSGs and international partners should build meaningful linkages between EITI and other environmental and resource-governance agendas aimed at poverty reduction and sustainable development outcomes at the local level.** National MSGs and local stakeholders should test out mechanisms for building meaningful linkages with environmental initiatives, green economy programmes, anti-corruption, and good governance efforts. International partners and extractive companies themselves can play a role in exploring linkages between different activities that they support, and by improving communication with one another.
4. **Donors and governments should support case-study research of subnational implementation and local multi-stakeholder initiatives.** Donors should fund research to develop in-depth case studies of (a) subnational EITI implementation and (b) cases where replication of EITI mechanisms and approaches is being used in local contexts to enhance local decision making on extractive industry issues. Donors could also fund subnational pilots. Companies should also encourage and/or participate in local-level multi-stakeholder dialogue around key issues related to their projects.
5. **Donors and international partners should review technical assistance approaches with the aim of building, not undermining, local and national capacities.** The EITI Secretariat, donors, and international partners should liaise to discuss some of the challenges of providing technical assistance, and how to support rather than undermine local civil society empowerment in the process. Donors should fund independent assessments of capacity-building efforts with a view to identifying what is most effective and under what conditions, and who benefits most. Local and national experts from within developing and middle-income oil, gas, and mineral-producing countries should be used more as consultants, trainers, and international experts.

We are open to discussion and comments in response to these recommendations, and to discussing their feasibility. We look forward to the ongoing dialogue.

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# LOCALISING TRANSPARENCY

## EXPLORING EITI'S CONTRIBUTION TO SUSTAINABLE DEVELOPMENT

Countries dependent upon exploitation of natural resources often suffer from the 'resource curse', characterised by poor economic growth, low living standards, corruption, and political authoritarianism. Civil society organisations have been campaigning for voluntary and legal transparency in natural resource sectors as a way to combat these issues. These efforts helped to establish the Extractive Industries Transparency Initiative (EITI), a voluntary global standard for disclosing company payments and government revenues. Yet a decade since EITI was established, it is unclear how transparency works for development, particularly for those living closest to resource extraction projects.

This paper considers whether 'localising' the transparency agenda – ie making it more relevant to local communities directly affected by extractive industry operations – might increase its potential to deliver sustainable development and poverty alleviation objectives within resource-dependent countries. Five case studies compare two lower middle-income countries that are EITI compliant (Ghana and Nigeria), two middle-income countries that are EITI compliant (Azerbaijan and Kazakhstan, and a lower-income country that is considering EITI participation (Uganda). The report offers a set of recommendations for EITI stakeholders aimed at ensuring that information generated through the EITI and other transparency initiatives leads ultimately to positive social and economic change for local communities.

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