

PLENARY REPORT FORM

PLENARY 2: Corruption in Natural Resources and Energy Markets

Date and time of workshop

Friday 31 October 2008, 9.00 – 10.30

Moderator Michael Peel, Financial Times

Rapporteur: Craig Fagan, Transparency International

Panellists

- Mary Robinson Former President of Ireland and Former UN High Commissioner for Human Rights
- Patrick Alley Director & Co Founder, Global Witness
- Ngozi Okonjo Iweala Managing Director, the World Bank
- Peter Eigen TI Founder and Chair of EITI
- Karin Lissakers Executive Director, Revenue Watch Institute

Summary

The dynamics and problems of the “resource curse” framed the discussion of how countries that are well-endowed in natural resource wealth – oil gas, mining and forests – can break the cycle of corruption, conflict and stagnated development that has too often come to characterise them.

The problem and plague of natural resource wealth – often called the “paradox of plenty” – is not confined to one region or country and challenges nations as diverse as Angola and Turkmenistan. The difficulty of addressing it is largely a result of corruption, lack of transparency and limited access to information. When corruption enters into the scenario, bribery, personal enrichment and theft leads to a loss of the natural resource revenues that belong to the citizens rather than a government or company. As a result, finding solutions must involve companies and countries in the North and South, who both are guilty for failing to play by clear rules and good practices.

A country’s “resource curse” can be turned around when there is an equitable access to resources, revenue transparency, accountability and mechanisms to address breakdowns (such as for the recovery of stolen assets). Transparency is one of the key conditions for making this change a reality.

Transparency is essential for companies and countries to provide information on what they get (from natural resources) and receive (in revenues). Changes in international accounting practices and stricter enforcement of anti-bribery conventions, such as from the Organisation for Economic Co-operation and Development (OECD), are the first steps needed.



However transparency is only one of the sources of change. Public expenditure management and capacity building are also required to ensure a country's natural resources are made a blessing rather than a curse.

Finally, political will must be present. As long as corrupt leaders and government officials continue to steal the monies earned from the sale of a state's natural resources, the resource curse will be perpetuated and the funds siphoned off.

Summary of Presentations

Patrick Alley made the clear link natural resource wealth, corruption, conflict, rights violations and poverty. He highlighted, through vivid images, the land grabs that have happened in Cambodia to reach the riches that communities are sitting above. In other instances, leaders and senior government officials of poor but oil rich countries have used their nations' resource wealth as their personal bank account.

The danger and abuses that natural resource wealth can bring to countries is a result of the sheer amount of monies that their trade generates. In 2006, US\$ 249 billion in oil was exported from Africa, a figure which was nearly six times of what the continent received in aid flows for that year.

Tackling the problem, Alley argued, requires looking at five different dimensions. First, access to the resources must be secured for citizens when a country auctions off its licenses. Once a concession is awarded, it is very hard to reverse the process — and the damage that follows. Second, revenue transparency is important to ensure that the monies flowing between extracting companies and host governments are accounted for. The Extractive Industries Transparency Initiative (EITI) has helped to push the issue to the fore but it is still only voluntary. Third, the management of money flows must be in place for revenue transparency to work. Banks need to better watch and address illegal flows that are finding their way into their accounts. Fourth, accountability provides the framework for this all to work. Binding legal agreements such as the anti-bribery convention of the Organisation for Economic Co-operation and Development has proven a key piece of legislation. Fifth, there must be consistency, even when laws are in place, to guarantee rules are equally implemented. The United Kingdom may be supportive of EITI but it is not addressing its own cases of corruption at home.

Peter Eigen used the experience and structure of EITI as a model for creating the good governance that is required to overcome the resource curse and combat corruption. He termed this relationship the “magical triangle” given its three-point relationship between international institutions, the private sector and civil society. The paradox of the “resource curse” and the high levels of corruption that are present in many countries blessed with natural resources require a renewed approach and partnership. Given that more than half of the world's population lives in countries rich in resources (oil, gas and minerals), it is a problem that cannot be ignored.

EITI, formally launched in 2002, has targeted its work with companies and governments — both in the host and home countries — since it views them as part of a long-term solution and essential partners for civil society in the fight against corruption. The EITI board currently has eight member governments, six members from the private sector and five members from civil society. There are 24 candidate countries that are part of the work, 16 of which are from



Africa. The aim of EITI is to find out what companies are paying to governments from countries that are part of the initiative and which form part of their corporate operations abroad. EITI supports improved governance through the verification and full publication of company payments and government revenues. All candidate countries are expected to abide by these principles.

Ngozi Okonjo Iweala, representing the World Bank, outlined the issues that she saw as creating a context for corruption to happen in resource-rich countries. The volatility of oil prices means that countries may become suddenly flush with revenues one year and face budgetary shortfalls the next. If governments are not skilled in public financial management, which can too often be the case in developing countries, then they will lack the mechanisms to smooth out these swings. Moreover, the rapid influx of funds and the pressure to spend them will also mean a spike in corruption risks.

When she was minister of finance in Nigeria, Iweala addressed this boom-bust cycle by putting in place reserve funds to smooth spending. In 2003, the country had US\$ 7 billion in reserves, which increased over the next couple of years to US\$ 38 billion, allowing a better fiscal management over the country's resources.

The lessons learned from the case of Nigeria were clear for her. When money from natural resource wealth is mismanaged, it causes problems inter-generationally. Increased transparency and better fiscal practices can help to improve management but actions are needed to also track how the money is spent and whether it gets down to the people. Rather than the "magical triangle" of a triad partnership, she viewed this process supported by five different actors: developing countries, developed countries, international investors, the international development community and civil society.

Karen Lissakers returned to this question of management but framed it differently. By their nature, natural resources are owned by the people of the country. The government is supposed to manage them for their citizens and the benefit of the nation. When resources are extracted from below the ground, there must be a productive asset produced above the ground that can be used to benefit a country's development and its citizens.

Yet when governance is weak and institutions are not in place, the control of the government becomes a proxy for the control of the country's resources. The phenomenon of the resource curse is well documented – the countries that are the richest in natural resources tend to be among the poorest and most conflict-ridden. Revenue flows from natural resource extraction provide a government with a huge amount of monies that are independent of the taxes that citizens pay. When the normal channels of accountability are missing between a government and the governed, opportunities are created for patronage and self-enrichment.

The challenge is creating a level playing field between sophisticated companies seeking to set up operations in a country and the local government that often confronts low capacities. Information flows maybe part of the solution for this problem. There should be transparent bidding processes, transparent contracts, the full publication of information (related to accounts, budgets and transfers), oversight over spending path and monitoring of company costs and revenues.

Changing overarching global and national legal structures can help. Lissakers cited that after the Foreign Corrupt Practices Act was passed in 1977 in the US, it drastically changed the ways that companies did business abroad. The willingness of governments in Europe and Japan to tolerate bribery by their leading officials continues unabated. European countries are not being serious and must prosecute to criminalize the process.

In her remarks, Mary Robinson highlighted this responsibility of governments and their need



to be more accountable to realising the human rights work. Natural resource revenue provides a means for achieving human rights yet corruption is a severe challenge to reversing the “resource curse”. Botswana has been able to use its diamond wealth to build a peaceful and prosperous country and tackle its HIV/AIDS epidemic. It is one of the first countries in Africa to successfully combat corruption, as evident in its Corruption Perception Index ranking.

Yet too many countries are in conflict which are very poor and at the same time resource rich. The Democratic Republic of Congo, Chad and Sudan are just some of the often cited examples.

There must be space created to use business and human rights as vehicles for better addressing the problem of the “paradox of plenty” and through efforts which are done in partnership with governments. States have a duty to protect people from businesses that violate human rights (in both the host and home countries of corporations). All corporations also have a duty to respect all human rights. There must be due diligence done for projects and companies must know the impact of their actions.

Unfortunately, when problems have been found the remedies have been inadequate to address the lapses of governments and corporations in failing to respect and fulfil human rights. If human rights are to matter at all, they must matter at home. For this to happen there must be a concerted action by citizens to change the way governments and companies are addressing the problem. Legislation has to hit home and their need to be more outrage which creates a reputational risk for companies.

The work of the UN Global Compact has helped to establish a dialogue on these issues and includes corruption among its ten principles that companies have signed on to. Rather than addressing the topics individually, the working groups set up by the Compact should be looking more closely at understanding the dynamics between human rights and corruption – and the roles of companies and governments.

Main Outputs

The panellists discussed a variety of ways to address these different dynamics in addressing the problem of the “paradox of plenty”:

Citizens must have access to information on the resources and the revenues that they produce. Corruption begins when governments act as poor proxies for citizen concerns. Clear access to information on the contracts and decisions is essential for social control to happen.

Companies and countries must respect and promote revenue transparency: EITI offers a good framework for partnership between them and civil society, with more than 300 NGOs and 39 companies that have signed onto the initiative. However, as Patrick Alley of Global Integrity argued, EITI is voluntary. In many cases the worst perpetrators or nations with the most natural resource wealth are not part of it.

Governments and businesses must be accountable for their actions. As underscored by Karen Lissakers of Revenue Watch, there needs to be greater accountability of all actors involved to respect and implement the current rules of the game – such as OECD Anti-Bribery Convention – as well as to design better controls and legislation to stop abuses.

When these other safeguards fail and resources are stolen, there must be mechanisms in place to get monies taken by corrupt leaders, officials and their families. The work must involve the engagement and mobilisation of civil society, in the countries that are receiving the



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assets as well as in the nations from where they were stolen. The efforts of the World Bank and UNODC, through the Stolen Assets Recovery (StAR) initiative, are one example of evolving work on this topic.

Recommendations, Follow-up Actions

The common agreement among panellists was that transparency is a precondition to end the “resource curse” for countries. There needs to be transparent bidding processes, transparent contracts, the publication of budgets, and transfers, oversight over spending path and information on companies costs and revenues. However transparency is only one of the components necessary to ensure long-term change.

Legislation must be changed Apart from changes on freedom of information laws and accounting standards, there needs to be changes of laws related to corruption and bribery.

When laws are in place, governments must enforce them: Bribers and bribees must both fall under legislation that is enforced and cases that are prosecuted, in the North as well as the South.

Setting up clearer and better rules of the game also is essential. The EITI standards are proposed as part of lobbying efforts to revise international financial accounting standards by companies and governments. The idea is that countries must disclose cost, volume of production and revenues generated through sales to unrelated parties. If passed, the change would take immediate effect in 100 countries.

At the same time, companies must be involved in the solution. There are new opportunities like the Global Compact for getting companies better engaged in the solution and making sure the private sector sees the “reputational risk” of their actions.



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Highlights

- Natural resources are the sovereign responsibility of governments in the countries with the wealth. As Karen Lissakers of Revenue Watch highlighted, this is the primordial problem of why natural resource wealth can easily breed contests between leaders over its control, conflicts between citizens and a breakdown in society.
- Yet currently there is a double standard in practices. Companies and countries in the North criticise the South for their failings but they are equally part of the problem. For example, Patrick Alley of Global Integrity argued that the British government condemns corruption in countries where they donate but they continue to give aid to these countries. Moreover, other panellists argued that the British government is not dealing effectively or responsibly with its own problems.
- Civil society needs to take up the cause of getting stolen assets recovered and form a movement similar to other work done around debt (Jubilee 2000). As Mary Robinson said, there is a need to make outrage cost more for the companies.
- The head of the state oil company in Equatorial Guinea, who is the son of the country's president, spent US\$ 250.000 in a shopping spree in Paris (and which was charged to the company).

Signed

Craig Fagan