

Plenary Short Report

Title of Plenary Session:

Fuelling Transparency and Accountability in the Natural Resources and Energy Markets

Panellists:

Peter Eigen, Chairman, Extractive Industries Transparency Initiative
Arvind Ganesan, Director, Business and Human Rights, Human Rights Watch
Ashok Khosla, President, International Union for Conservation of Nature
Karin Lissakers, Director General, Revenue Watch Institute

Moderator:

Michael Peel, *Financial Times* correspondent based in Nigeria as West Africa correspondent

Rapporteur:

Craig Fagan, Senior Policy Coordinator, Transparency International

Summary (300 words)

The panel “Fuelling Transparency & Accountability in the Natural Resources and Energy Markets” focused on the tools that can be used to bridge the gap between revenues generated by natural resource wealth in a country and the benefits (or lack there of) that this has brought to a country’s citizens. The focus of the panellists was how to increase transparency, strengthen accountability and engage citizens to ensure that countries rich in natural resources do not see these turned into a curse.

Unfortunately, in many developing countries with extractive industries, the revenue flows generated dwarf money entering a government’s coffers, such as through taxes or aid. Yet corruption prevents a large portion of these funds from going into government coffers and benefitting a country’s development.

While the consensus was that efforts over the last decade to crack the transparency box have come a long way, there still is much work to do, particularly on the issues of increasing accountability and getting citizens involved in controlling the wealth that their countries are producing from oil, gas, mining and other natural resources.

Previous advances on transparency are credited to joint work led by civil society and done in collaboration with governments and the private sector actors. While increased transparency in itself will not end poverty or corruption, it provides a tool for transforming governance, accountability and citizen engagement.

It is each of these areas that have become the new frontier for work in natural resources. Accountability, governance and participation can be strengthened by drawing on existing international legal instruments (such as the UN Convention against Corruption), national laws (such as the Dodd-Frank Act in the United States) and new initiatives that try to block the proceeds of corruption from being spent (such as through travel and visa bans on government officials from very corrupt countries).

Summary of presentations (300 words per panellist)

Peter Eigen:

- Conviction and experience of how powerful is the impact of CSOs in improving governance in intractable areas of governance (caused by globalisation and inability of state governments to take care of issues of justice and rule of law).
- TI began with Oxfam, Global Witness and others to form a coalition to lobby companies to publish what they pay to governments. Formed in late 1990s, the movement, known as Publish What You Pay, still exists and argues the importance of being transparent on taxes, revenues, royalties and other payments.
- Extractive Industry companies' data on revenues paid to governments were not made available and kept secrets. When PWYP was successful in getting companies to respond, the countries that were being paid pushed back to not do.
- This caused a switching in target of PWYP to lobby governments to open information. This attracted other collaborators, including the UK under PM Blair, to open up the transparency box.
- Efforts resulted in Nigeria offering to publish the information of what they were paid, creating a platform for the launch of the Extractive Industries Transparency Initiative. 20 members of board (one-third governments, CSOs and companies). Triangular relationship between governments, civil society and businesses is reflected here.
- 33 countries are part of it and more than 50 reports have been published, 4 countries have been verified as EITI compliant. The total 33 countries that are part of EITI cover of population of 500 million people.
- Data of EITI reports is made available to media, parliamentarians and citizens in these countries.
- This has made available information on the money flowing through the coffers of governments.
- Data itself does not feed children or end poverty but opens up a box and leverages for better global governance.

Karen Lissakers

- Tremendous progress in last decade on revenue transparency. It is no longer an issue just for CSOs; it is being accepted by governments and recognised by donor agencies as critical.
- Africa exports US\$ 400 billion in mineral resources each year and receives US\$ 25 billion in aid (Sub-Saharan Africa). But the value of the export does not transfer into resources for development.
- This is for a variety of reasons related to governance.
 1. Quality of deals (lack of negotiation capacity, corruption).
 - o Even when a deal may be favourable, the people do not always get a good deal.
 2. This may be because the countries are not able to manage the resources well, and here corruption is a factor (misappropriated and diverted for personal and factional gain).
- Transparency needs to be secured along all parts of the supply chain: revenue streams, budgets and spending the money
- There have been advances on transparency through legislation.
- The adoption of the Dodd-Frank law in the US – must publish information country-by-country and covers 29 of the 30 largest oil companies (8 of 10 largest mining companies in the world). Rules will take affect in 2011 and will generate a lot of information.
- Another innovation has been monitoring tools. The Revenue Watch Index, released in 2010, covers 41 major resource producing countries and information made public by these companies. 2/3 of countries produce limited or no information. Five of 41 countries publish contracts made for concessions. 14 countries publish social and environ impact assessment.
- While there is still a long way to go, there has been a huge increase in interest among citizens on the topic of revenue transparency.

Arvind Ganesan

- A decade ago, began looking at impact of corruption on human rights in resource rich countries like Angola, Equatorial Guinea, DRC and others.
- Accountability, transparency and respect for HR have advanced in these last 10 years.
- Even non EITI countries are being pressured for greater revenue transparency and there is a general consensus that enormous progress has been made on transparency over the last decade.
- Still, there are clear and outstanding problems. As most recent CPI shows, Angola falls at 168 of 178 countries (in range for last 6/7 years). Even Nigeria and Azerbaijan are at 134th and these are two of the first countries to join EITI.
- There also needs to be an increased focus on accountability within countries to make governments i.) accountable for their expenditures and ii.) accountable for what they should not be buying with the resources that they gain.
 - o If you are going to steal money, you will want to spend it and will not spend it on average things. Will spend it on luxury items and have to go somewhere (Paris, London, New York).
- This week, judges in France have allowed investigation to continue about allegedly stolen revenues from the resource wealth in Gabon and Equatorial Guinea that have been used to buy properties and other goods in Paris.
 - o In the case of Equatorial Guinea, it is estimated that US\$ 80 million have been spent in 2 years (according to US Senate reports on the country).
- Let's make it more difficult for Equatorial Guinea and other governments to spend it elsewhere.
 - o This can be done by:
 1. filing private suits,
 2. having governments deny visas to come to their countries,
 3. enacting anti-money laundering initiatives and anti-corruption laws to see if they can go after officials,
 4. putting more of a burden on individuals and institutions that facilitate the process (i.e. real estate agents and lawyers).

Ashok Khosla:

- How to move from piecemeal efforts to something that embraces how the world is developing economically – bringing in all countries (including BRICS and not just traditional Western countries).
- It is a crime where there is complicity. Able to get away with violation.
- The area of natural resources also needs to be understood in a broader context and include forest, soils, land, wildlife.
- Of 7 or 8 largest sectors of economy, include human trafficking, trade in wildlife and trade in drugs.
- Trade in wildlife is a horrendous issue.
 - o Tiger, orangutan, birds, reptiles are in danger.
- Each one of the nexus is a “place for corruption”.
- “It is the micro level that accounts for something in the lives of real people and we have to see how to empower people.
- For example, in India, a champion in government has taken on the companies and even government because he has drawn the line on mining and how resources have been hijacked by the system.
- At micro level, another important area is to make sure that if information is opened, people can understand it. The work of his organisation has focused on need to make everyone literate. Have developed range of methods to teach people within 30 days at a total cost of US\$ 100. This is a crucial first step in being able to exercise one's rights.

Main Outputs (200 words, narrative form)

The 'magic triangle' of partnership, as termed by Peter Eigen, provides the foundation for change. The triangle links civil society, governments and companies in a compromise to reframe how business is done. This vision of collaboration is how the Extractive Industries Transparency Initiative is structured.

Such possibilities for change are also seen as a result of anti-corruption legislation, both nationally and internationally. For example, globally, the UN Convention against Corruption (UNCAC) and the OECD anti-bribery convention have served as helping to re-set the bar on levels of transparency and accountability for companies and governments.

However, as noted by the panellists, advances still unfortunately do not go far enough. The OECD convention does not include new emerging powers such as Brazil, China and India as signatories. Even the EITI, which has broad support, is only five years old and is still in the learning phase. In the case of national legislation, while it is on the books, is not always enforced and countries have been complicit. Countries have applied legal frameworks using a double standard when it comes to the behaviour of their businesses abroad.

Moreover, the biggest challenge, as noted by Ashok Khosla, the President of the International Union for Conservation of Nature, "there does not seem to be any limit to greed" despite the limits of nature.

Recommendations, follow-up Actions (200 words narrative form)

The solutions for change, as agreed by the panellists, must be bottom-up (grassroots demands) and top-down (effective frameworks that are implemented). There is no substitute for a globally, legally binding treaty. Yet it is not possible to think of real action on the ground to countries that have not subscribed to it.

Measures need to be innovative, such as going after the money that is stolen where it spent (such as through trials). And efforts must be targeted at preventing the money from getting spent (i.e. travel and visa bans, "know-your-customer" laws for lawyers and real estate agents, etc.). This can also be done through the use of new technologies – such as Wikileaks, websites, geographic information tracking and satellite systems and other information tools – along all the steps on the value chain.

As Arvind Ganesan of Human Rights Watch explained, "Going after people after they spend money is working". One clear example comes from Equatorial Guinea. It has faced an enormous amount of stigmatisation because of corruption. What is the next step is "the globalization of enforcement", as Ganesan noted.

There needs to be an end to the impunity as it is the citizen who faces the inequities of corruption. If we know where the money is that has been stolen and where it is outside the country (such as in Geneva or London), it should be made known and returned to the citizens.

Highlights (200 words please include interesting quotes)

As Ashok Khosla posited during his presentation, "What is corruption?" and how are we conceptualising the problem vis-à-vis the theft of natural resource wealth. Corruption needs to be understood as an illegal act; it is a crime: a crime against the law, a crime against humanity, a crime against nature and a crime against the future.

One of the main aims of ending corruption is to turn natural resource wealth from a curse into a blessing.

As Karen Lissakers underscored, “Transparency is a critical component” in getting the resources right”. While there have been important advances on this front, such as through new legislation and multi-stakeholder initiatives, it still falls short in practice. As Lissakers finished her comments, she noted that “there is indeed a very long way to go”.

This sentiment was also echoed by Arvind Ganesan, but on the issue of accountability. The mechanisms that are being used for stealing and spending the money need to end and the stakeholders that form this triangular partnership of (civil society, governments and companies) need to “make the next decade the decade of accountability”.