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The New Rules of the Game

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The Good/Bad Nexus in Global Energy Governance

Thorsten Benner and Ricardo Soares de Oliveira
with Frederic Kalinke

Traditionally, global energy governance has been a value-blind enterprise dominated by crude realpolitik concerns. For energy-importing governments in the industrialized world only two variables mattered: the price and the security of supply of the lifelines of industrial civilization, especially oil. Likewise, oil-exporting countries (which are mainly in the developing world) put a premium on price as well as continuous and long-term rent generation through exports. International energy companies were powerful intermediaries; they cared about maximizing access to hydrocarbons and about their own profits. International financial institutions, both private banks and public institutions such as the World Bank, cared solely about a project's narrow economic viability when making investment decisions on the huge capital needs of oil extraction ventures. The broader political, environmental, and development impact on oil-rich countries was not a concern.

In short, with profits and geopolitics being the main guiding concerns, the key actors and institutions in global energy governance were value blind with regard to the broader societal implications of the hydrocarbons business. *Good* and *bad* mattered only as far as the basic honoring of contracts was concerned. For example,

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during the cold war the major consuming nations were certainly worried about the danger that the assets of Western multinationals might be nationalized.

This situation has changed dramatically over the past ten years due to the rise of good governance as a concern in global energy matters. In their 2007 Heiligendamm summit statement, the G-8 countries affirmed:

> It is in our common global interest that resource wealth be used responsibly so as to help reduce poverty, prevent conflicts and improve the sustainability of resource production and supply. We firmly agree that significant and lasting progress in this area can only be achieved on the basis of transparency and good governance. Against this background, we support increased transparency with regard both to the extractive sector and the subsequent trade and financial flows.[1]

To put these words into action and "foster transparency with regard to resource-induced payment flows" in practice, the G-8 vowed to "support good governance and anti-corruption initiatives, such as the Extractive Industries Transparency Initiative (EITI)."[2] This was a dramatic shift: within just a decade, good governance and transparency, rhetorically at least, made its way to the top of the global energy governance agenda. The G-8 took to supporting institutional answers such as the EITI. What explains the rise of the good governance agenda? What is the record in terms of implementing reform initiatives promoting the good in global energy governance? What are the prospects for the good governance agenda?

This chapter tackles these questions in three steps. The first part analyzes the context and the drivers of the rise of good governance. The second part reviews the record of good governance reform initiatives, focusing on voluntary transparency initiatives, chiefly EITI, and reviewing its performance in crucial cases (Nigeria and Azerbaijan). It also analyzes other institutional experiments, such as the Chad-Cameroon pipeline and the EITI++. The third part discusses the prospects for the role of the good in global energy governance. It argues that good governance is far from being anchored into the rules of the game of global energy governance due to the lack of political will on the part of Western political powers to mainstream the agenda into the financial system, the lack of coverage (that excludes major producers such as Saudi Arabia and Russia), and the lack of inter-

1. G-8 (2007).
2. G-8 (2007).

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est on the part of such new consumers as India and China, which never subscribed to the good resource governance reform agenda in the first place.

The Rise of the Good/Bad Nexus in Energy Governance

The paradox of plenty is not exactly a recent revelation. Reviewing the experience of the rise in oil prices after the founding of OPEC in the 1970s, economists have held that "paradoxically, despite the prospects of wealth and opportunity that accompany the discovery and extraction of oil and other natural resources, such endowments all too often impede rather than further balanced and sustainable development."[3] For a long time, however, the discussion focused on the economic dimensions and origins of this phenomenon. Two economic mechanisms stand out: currency appreciation due to resource revenues and its negative effects on the competitive position of other industries (the so-called Dutch disease); and the negative effects of the fluctuation in oil prices.

The political and societal origins and dimensions of the paradox of plenty rarely came into relief.[4] Juan Pablo Pérez Alfonso, the Venezuelan oil minister who cofounded OPEC, complained as early as 1975: "I call petroleum the devil's excrement. It brings trouble. . . . Look at this *locura*—waste, corruption, consumption, our public services falling apart. And debt, debt we shall have for years."[5] However, such observations were mostly inconsequential. Certainly the pathologies associated with energy governance have a long history, and it was hard not to notice them. But under the dominant realpolitik approach they were ignored and did not factor into high politics. Here matters of hard energy security, such as security of supply and good relations with energy producers as well as the core business concerns with price and profits, were paramount.

From the mid-1990s onward, all of a sudden the perverse outcomes of oil extraction in developing countries came into the policymaker's and the broader public's spotlight. A number of developments contributed to this.

First, policy research identified bad governance as a driver behind the dismal development outcomes in resource-rich countries. Academics and policy centers (such as the World Bank) conducted further research on the links between natural resource exports and "development." Broad research showed an inverse connection between mineral resource endowment and broad-based development.

3. Humphreys, Sachs, and Stiglitz (2007), p. 1.
4. Karl (1997).
5. Quoted in "Oil and Development," *The Economist,* May 22, 2003, p. 78.

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Indeed, research suggested that oil- and mineral-rich states in the developing world were more likely to suffer from heightened political competition, lack of provision of basic public goods, corruption, and civil war than non-resource-rich states and were also more likely to be poorer.[6]

In this context, of particular importance is the work of the Extractive Industries Review, an independent commission convened by the World Bank: the review acknowledged that the extractive industries had failed to alleviate poverty in much of the developing world and had frequently brought about disruption to the environment and local communities.[7] Often these important findings were presented under the label "resource curse." This is a crude misnomer, since the term *curse* suggests a quasi-automatic correlation between the presence of petroleum and dismal development outcomes. Furthermore, the examples of the United Kingdom and Norway, both major oil exporters, demonstrate otherwise. The U.K. and Norway did not magically or accidentally escape the spell of the resource curse. Rather, they had institutions in place and made political decisions on how to use the revenues responsibly. This shows that the resource curse is not an unavoidable fact of life, nor is it a chiefly economic phenomenon. It is mainly a "political/institutional phenomenon."[8] In other words, it is a question of governance, a realization that has taken a while to sink in among policymakers and the public.

A related observation is that the dismal development outcomes are due to a linkage between international and domestic factors (both of which make up global energy governance arrangements). This means that the global "institutions shaped by multinational oil companies, their host governments, and foreign lenders" *and* the elites and institutions powering the producer states and the public and private oil companies of producers are jointly responsible for the perverse development outcomes. This nexus continued to be "an inconvenient reality that is often not addressed."[9] Once the resource curse was reframed in terms of a political-institutional challenge—of moving from bad to good governance—remedies were easier to identify.

Second, the diagnosis of bad resource governance ties in with the broader good governance agenda, which put institutions at the heart of development efforts after the disappointment with narrow Washington consensus policies: "Public sector institutions are the black holes of economic reforms. In most countries they absorb

6. Collier and Hoeffler (2004); Ross (2001).
7. The six-volume review is available at www.eireview.org (June 2009).
8. Karl (2007), p. 257.
9. Karl (2007), p. 257.

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efforts and investment that yield obscenely low returns to society, distort labor markets, reduce countries' overall productivity, impair international competitiveness, and easily fall prey to vested interests."[10] Western donors and international financial institutions came to appreciate a link between good governance and economic development.[11] This led them to conclude that global governance arrangements and outside actors needed to concern themselves with changing domestic governance practices and arrangements. This is in line with the overall concern with behind-the-border issues that Western powers pushed in the context of recasting sovereignty in terms of responsibility.

Third, and related, corruption emerged as a key concern on the global agenda, chiefly a result of pressure by organizations such as Transparency International. Corruption had been ignored until the 1990s. Until that time, the U.S. Foreign Corrupt Practices Act of 1977 had been the only law effectively criminalizing bribes abroad: in fact, bribes had been tax deductible in many European countries, which arguably promoted such behavior by home firms in global markets.[12] This started to change with the adoption by the OECD's thirty member states of the 1997 Convention on Combating Bribery of Foreign Public Officials, which was followed by the Inter-American Convention against Corruption (1996) and the UN Convention against Corruption (2004). The fact that James Wolfensohn helped to lift the taboo around discussions of corruption at international financial institutions also facilitated discussions of such matters in the energy arena.[13] Subsequent policy suggestions varied from the voluntary and faintly reformist to the radical call for tough regulation of financial flows, but everywhere business practices across the developing world (and in the energy sector in particular) were under scrutiny. Similar policy shifts happened with regard to human rights and sustainability, which also posed profound challenges to the practices of resource extraction in developing countries, practices that traditionally disregard human rights and environmental concerns.

Fourth, the behavior of transnational corporations in developing countries reemerged as a key concern in the globalization debate from the mid-1990s onward.[14] Many in the public see transnational corporations, and oil companies in particular, as economic and political heavyweights. The 200 largest corporations

10. Naím (2000), p. 99.
11. Gillies (forthcoming).
12. Eigen (2007).
13. Mallaby (2004).
14. Benner and Witte (2006).

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account for a quarter of the world's gross domestic product. Many of them—especially oil companies—were seen as engaging in reckless behavior in developing countries, leading to calls for rules for global players, calls that multinational corporations themselves could not ignore. Particularly venal acts such as the execution of Nigerian activist Ken Saro-Wiwa in 1995 put the public spotlight on the dismal conditions in the Niger Delta and forced Royal Dutch/Shell to confront its own role and involvement. This made it increasingly clear that the traditional "the business of business is business" approach was no longer tenable for brand-sensitive Western-based multinational corporations.

Savvy norm entrepreneurs in civil society (in organizations such as Global Witness, Transparency International, Catholic Relief Services, and the Open Society Institute) and a number of progressive government officials (mainly in countries such as Norway and the United Kingdom) took advantage of these four trends and framed the debate on good resource governance around the norm of transparency.[15] Transparency emerged as the chief remedy for bad energy governance; two such initiatives were Publish What You Pay and Extractive Industries Transparency. The diagnosis was simple: "Opacity is the glue holding together the patterns of revenue extraction and distribution that characterize petro-states as well as the entire international petroleum sector. Companies do not publish what they pay to states, and states do not disclose what they earn and spend."[16] As a consequence, "huge amounts of money are virtually untraceable and not subject to any oversight." Transparency was the necessary and logical antidote.

A recent report by Transparency International sums up the core assumptions of transparency activists:

> Transparent resource governance is a vital ingredient to transform this resource curse into a blessing. To do this, companies and governments need to provide more and better quality information on the scale of revenues derived from the extractive industries and on how these revenues flow from producers to governments. If accompanied by greater civil society oversight, this improved revenue transparency can make decision-makers more accountable for their actions. With better information on natural resource wealth, citizens can pressure governments to use these revenues for social and infrastructure programs that can boost economic growth and reduce poverty. Transparent resource governance is therefore a shared responsibility.[17]

15. Gillies (forthcoming).
16. Karl (2007).
17. Transparency International (2008).

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Another observer notes that the "most promising initiatives so far are those that seek to put in the hands of citizens more information about how much revenue their governments receive and how they spend it, so they can demand accountability."[18] Former U.K. prime minister Tony Blair explained why he regards transparency as a win-win for all parties:

> Increased transparency will also help to create the right climate for attracting foreign investment, and encourage an enterprise culture. Governments need to create this favorable environment, but companies have an interest in promoting transparency too. Transparency should help companies to reduce reputational risk, to address the concerns of shareholders and to help manage risks of long-term investments. And transparency is a positive contribution to development as it increases the likelihood that revenues will be used for poverty reduction.[19]

These arguments in regard to lack of transparency in financial transactions between resource-rich states and Western corporations fell on fertile ground. A receptive media and public opinion in the West quickly accepted that this particular aspect of North-South relations played a key role in causing the dismal development outcomes in resource-rich developing countries. That said, transparency around oil and gas extraction never gained the same urgency as the debate on diamonds fueling conflicts in places such as Sierra Leone and Angola. The campaign against "blood diamonds" captured the Western public's imagination and led to swift action in the Kimberley Process Certification Scheme. No major nongovernmental organization has even tried to launch a campaign on "blood oil" or "blood gas." Unlike with diamonds, the ultimate luxury goods, average Western citizens are implicated daily in the oil and gas business when filling up their cars or turning on the heat in their apartments.[20]

Still it is a remarkable development that the reformist transparency and good governance agenda that originated in small activist constituencies were elevated to the level of high politics in global energy governance. The recognition of the importance of transparency by the G-8 (which at least until recently fashioned itself as the world's most exclusive and powerful club) is proof of this. Equally important, belatedly policymakers in the United States, where the government was a bystander at best during the Bush presidency, have also translated the good

18. Marina Ottaway, "Tyranny's Full Tank," *New York Times,* March 31, 2005.
19. Blair (2003).
20. Ross (2008).

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resource governance progressive agenda into the language of foreign policy realists. This includes reframing bad resource governance as a threat to U.S. security, economic, and foreign policy interests. U.S. Senator Richard G. Lugar, a Republican, for example noted in 2008 that the so-called resource curse "exacerbates global poverty which can be a seedbed for terrorism, it dulls the effect of our foreign assistance, it empowers autocrats and dictators, and it can crimp world petroleum supplies by breeding instability."[21]

While the rhetorical rise of the good resource governance agenda is remarkable, it is important to appreciate the conditions that enabled the rise of the reform agenda: a unique window of opportunity of unquestioned Western dominance in world affairs and energy markets, lasting from 1990 until roughly 2005, set the normative tone (if not the substance) of the post–cold war international system. The rise of China and India, the arguably diminished status of the West, and the rise of plurality of global power centers mean that this window for normative tone setting may have now closed. Before we explore how this has come to pass it is important to disaggregate claims of the wholesale and all-encompassing normative shift and note the holes in the subscription to the agenda even when it seemed to have traction.

First, even among the committed drivers of the agenda—the United Kingdom, Norway, and Germany—not all parts of the government signed on to promote it. In Germany, for example, it was mainly the development cooperation ministry pushing the agenda, while the economics ministry continued its disregard of good governance concerns. The United Kingdom remained uncooperative about stolen funds from oil-rich countries that found a haven in the City of London banks.[22]

Second, the progressive reform rhetoric, even at its height, always contained a strong realist element: it figured prominently in Western engagements with failed, weak, or new states but not, for instance, with Russia, Venezuela, or Saudi Arabia. It is astonishing that this discourse played next to no role in the last decade when dealing with the major oil and gas producers, several of which also exhibit the pathologies of corruption and environmental destruction. Needless to say, many of the traditional oil producers (OPEC and Russia) never showed any interest in the reform agenda.

Third, from the start the progressive agenda of putting the "good" at the heart of global energy governance had little traction with some of the most important new players in the energy game, namely the new importers in Asia

21. Lugar (2008).
22. Peel (2009).

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such as China and India and their national oil companies.[23] Their understanding of energy remained firmly realpolitik and showed little patience with the reformist agenda.

Reform Drives: Their Shape and Record

The initial reluctance to embrace the reformist agenda applied to Western oil corporations as well. Despite varying degrees of commitment to reform, ranging from BP's and Statoil's seeming enthusiasm to ExxonMobil's and Chevron's reluctance, Western corporations engaged in reformist bids from an essentially defensive position. The reform agenda originated outside these companies and was very much against their decades' long practices.[24] Oil firms understood that some form of commitment to the new trend had to be made if a popular backlash in Western countries was to be avoided. On the other hand, these companies had not been that negatively affected by the business practices that characterized energy-rich states. They were fearful that the pursuit of reform (especially if it meant overriding domestic secrecy laws that protected oil contracts) might damage carefully cultivated relationships with incumbents or benefit less brand-conscious companies not facing the same pressures.

That being said, the fact that key Western players, with emphasis on the governments of G-7 states, adopted a commitment to transparency however defined would make this an unavoidable dimension of global governance discussions in the coming decade. This resulted in the rhetorical acceptance of transparency, and engagement with transparency initiatives, by actors that were not fully on board but could ill afford to opt out of the new reformist lexicon. In short, a concern that had barely registered outside small constituencies was now seemingly accepted by everyone in the West. Even the governments of energy-rich states that were blatantly uncommitted to the spirit of the reform effort felt that they should pay lip service to this reform drive.

23. Chen (2007). India's policy change toward Burma is particularly interesting. Before 1993 Indian national oil companies did not prospect Burmese natural gas due to India's normative opposition to the military junta. However, in 1993 the Indian government dramatically changed its policy by declaring Burmese political development to be a domestic matter that should be resolved internally. Thereafter Indian companies began natural gas exploration and production.

24. Soares de Oliveira (2007).

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Transparency: Voluntary and Regulatory Approaches

Unsurprisingly, this new centrality of transparency gave birth to a number of high-profile multistakeholder initiatives. One of the earliest came from the private sector in the form of a discourse on corporate social responsibility (CSR). This appeared as an endeavor by companies to both deflect criticisms on the environmental and social impact of their activities and prevent the creation of putative transnational regulatory frameworks to tackle them. Many observers portray CSR—which today is an industry employing thousands and producing social audits and community relations advice—as primarily a public relations exercise.[25] The noteworthy innovation of CSR lies in the fact that companies for the first time admitted as their responsibility tasks and consequences that were formerly seen as beyond their purview.

Most high-profile companies have since adopted nonbinding good behavior codes. Home states have taken to the CSR concept with equal enthusiasm, as have international governmental organizations.[26] In particular, the UN has formed the Global Compact, a voluntary forum of more than 7,000 member companies. The Global Compact publicizes good performance in the hope of creating benchmarks for industry best practices.[27]

The key initiative in the transparency arena over the past decade is the EITI, a policy framework launched by Prime Minister Tony Blair in 2002 and subsequently developed by a series of conferences. EITI aims to improve the management of public revenues in resource-rich countries of the developing world through the voluntary disclosure by companies and states of payments resulting from the sale of both solid minerals and hydrocarbons.[28] According to its website, EITI membership is now composed of investors, civil society groups, extractive industries, implementing governments, and supporting governments. The EITI is currently directed by a board supported by an international secretariat based in Oslo. The initiative is financed by a multidonor trust fund run by the World Bank. As of 2008 there were twenty-three EITI candidate countries (about half of the world's natural resource exporters) at different levels of reform implementation: these are Azerbaijan, Côte d'Ivoire, Cameroon, Democratic Republic of

25. Blowfield and Frynas (2005); Christian Aid (2004).

26. For the British government's CSR activities, see www.berr.gov.uk/whatwedo/sectors/sustainability/corp-responsibility/page45192.html/ (February 2009).

27. For the activities of the Global Compact, see www.unglobalcompact.org (February 2009).

28. For more information on the initiative, see www.eitransparency.org (January 2009).

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the Congo, Equatorial Guinea, Gabon, Ghana, Guinea, Kazakhstan, Kyrgyzstan, Liberia, Madagascar, Mali, Mauritania, Mongolia, Niger, Nigeria, Peru, Congo-Brazzaville, São Tomé and Príncipe, Sierra Leone, Timor-Leste, and Vietnam.

The other high-profile initiative, Publish What You Pay, was also launched in 2002. It was the culmination of a number of civil society activities, especially by Global Witness.[29] Global Witness had been active since the mid-1990s in investigating the links between conflict and the exploitation of natural resources. One of its reports on the Angolan civil war and the involvement of foreign business actors, published in 1999, triggered the formation of an NGO alliance. The alliance eventually included more than 300 organizations. The support of George Soros for the PWYP campaign would prove instrumental. While sharing the same normative agenda and goals as EITI, PWYP pushed for mandatory, as opposed to voluntary, disclosure of revenue payments by companies to the governments of resource-rich countries. Ideally this should be achieved by way of revenue disclosure laws in both host and home states. But the crucial pressure point is the home governments of stock markets: PWYP aims to have regulators such as the Securities and Exchange Commission force oil companies to divulge payments made to foreign governments.

PWYP has been an agenda setter, and some of its ideas have been picked up by important players, as shown by ongoing discussions in the U.S. Congress on the Extractive Industries Transparency Disclosure Act. Moreover, even if EITI provided those skeptical of a regulatory approach with a safer initiative, EITI's and PWYP's agendas share two basic assumptions. The first is that transparency creates a deterrence logic that will discourage decisionmakers of energy-rich states from stealing from the national coffers. The second is that, once provided with real information about revenues, the civil societies of resource-rich states will demand more accountable governance.[30]

This said, the trend over the past decade has been a consistent preference for voluntary over regulatory solutions. Companies make philanthropic commitments to affected communities or issue vaguely worded codes of conduct. Energy exporters sign on to schemes like the EITI, which are hard to enforce in the best of times. Norway's several capacity-building initiatives are a case in point. In this

29. For more information on the campaign, see www.pwyp.org (January 2009).

30. Cross-fertilization among the several groups is exemplified by the fact that Transparency International is one of the founders of PWYP; that Peter Eigen, TI founder, is the chairperson of the EITI board; and that Global Witness, with a record of collaborative work with EITI, is a key force in PWYP.

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context, the experience of EITI deserves a detailed discussion, especially in the so-called pilot countries, Nigeria and Azerbaijan.

Nigeria

Nigeria is one of the world's leading oil producers, but the resulting wealth has not served the country's development: despite more than US$400 billion in oil earnings since 1970, Nigeria's income per capita is still 25 percent lower than the African average, and some of the country's human indicators are lower than at independence in 1960.[31] The poor management of Nigeria's extractive industries, the almost unparalleled degree of oil sector corruption, and the Niger Delta oil-related conflict are the defining issues in Nigerian politics.[32]

Nigeria was not the obvious country to spearhead the EITI drive, but it did so in 2004 under the initiative of President Olusegun Obasanjo, known as a major supporter of Transparency International. Although some anticorruption measures were sketched during Obasanjo's first term in office (1999–2003), a concerted effort in this area was not undertaken until after his election for a second term in April 2003.[33] One of its high-profile programs is the Nigerian Extractive Industries Transparency Initiative (NEITI), described as "an attempt to throw light at the policies and practices of the Nigerian Extractive Industry."[34]

NEITI was launched in February 2004 with the goal of "following due process and achieving transparency in payments" made by foreign companies "to government and government linked entities and in the revenues received and reported by those governments and agencies."[35] The U.K.'s Department for International Development, the World Bank through its EITI trust fund, and the EITI international secretariat based in Oslo jointly supported the process. The tasks of NEITI include reconciling amounts of crude lifted with amounts paid; raising public awareness of NEITI; and publishing audits, reports, and statistics. The National Stakeholders Working Group (NSWG) has been described as a platform for the implementation of NEITI.[36] To address the great capacity deficiencies identified

31. Richard Murphy and Nicholas Shaxson, "African Graft Is a Global Responsibility," *Financial Times,* June 1, 2007; Peel (2009).

32. Watts (2008).

33. The first three years of the second Obasanjo administration saw a number of high-profile officials enacting reforms in macroeconomic management (including debt repayment), the banking sector, financial crimes prosecution, oil sector governance, and counterfeit drugs.

34. NEITI Secretariat (2005).

35. NEITI Secretariat (2005).

36. This NSWG was dissolved in 2007 and a new one appointed the following year. Its activities remain limited.

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in government agencies responsible for oversight of the extractive industries, the NSWG set up a focal team to put together training programs, secondments of expertise, and support for "selected government agencies and civil society."[37]

The biggest achievement of NEITI was without doubt its audit of the five-year operational period (1999–2004), which unearthed several discrepancies and deficiencies in the physical and financial records of oil sector entities, including oil company payments to the Nigerian state.[38] This was unprecedented. However, Obasanjo's brief engagement with reform ended in 2006, as the president wasted much political capital seeking to change the constitution to allow himself a third term and allowing public spending to increase ahead of elections. Some skeptics argued that the reform language was being deployed, in the time-honored Nigerian way, to pursue the enemies of the president.[39] Despite the 2007 NEITI act, which enshrines the initiative in Nigerian law, this trend became undeniable, as presidential allies remained unscathed by law enforcement agencies and Obasanjo-related questionable behavior (for example, regarding oil rounds) emerged.

Most important, the major claim common to all of the transparency initiatives—that civil society would use the information made newly available to enact political change and reform in the direction of greater accountability—failed to materialize for NEITI. Unlike countries (such as Equatorial Guinea) whose public sphere is tightly controlled, lack of political space is not a factor in Nigeria. On the other hand, the fragmentation of civil society and its vulnerability to inducements or pressure from the elites, together with the technical complexity of audits that can only be deciphered by specialists, may provide an explanation.[40] As Nicholas Shaxson writes, "The changes that have happened have all depended on the political context in which they have been embedded."[41] NEITI was not so much driving reform as being enabled by an overarching reformist moment, which proved temporary. When that evaporated, so did the political priority

37. NEITI Secretariat (2005). Government representation was very significant (50 percent of the NSWG, or fourteen members). Other stakeholders represented in the NSWG included the media, indigenous and multinational companies, the organized private sector, state and regional Houses of Assembly, and the National Assembly (two members, one from the Senate and the other from the House of Representatives). Civil society organizations had only two representatives.

38. This paragraph owes considerably to an analysis provided by Nicholas Shaxson, associate fellow at Chatham House, who is currently writing a major report on NEITI implementation.

39. Michael Peel, "Britain and Nigeria's Half-Hearted War against Corruption," *Financial Times,* October 17, 2005.

40. Ricardo Soares de Oliveira, interviews with author, Abuja, March 2006. Additional interviews in Angola (January 2004) and Congo-Brazzaville (October 2005) point toward a lack of understanding and political inoperability of oil sector audits.

41. Shaxson (2008).

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accorded to NEITI, and the record since 2006 is essentially that of paralysis. Meanwhile, the resource-linked problems besetting Nigeria have not obviously been mitigated by reformist zeal.

Azerbaijan

Azerbaijan, a family-run, authoritarian, petrostate in the Caucasus, was the second unlikely early implementer of EITI. After a decline in the late Soviet years, investor interest in the 1990s led to a major oil boom under the leadership of the former KGB strongman Heydar Aliyev and, since 2005, his son Ilham. Rising oil prices throughout the last five years further contributed to substantial GDP growth rates (34.5 percent in 2006 and 23.4 percent in 2007). Despite this wealth, large segments of Azerbaijan's population are poor (24 percent are below the poverty line). Hydrocarbons represent more than 90 percent of government revenues, and non-oil-sector economic activity, other than closely associated sectors such as construction, is negligible.

In November 2004 a memorandum of understanding was signed between the government, foreign and local oil companies, and local NGOs with a view to increasing transparency through the implementation of EITI. Azerbaijan has been successful in gaining company support, as all twenty-six oil and gas companies active in the country joined EITI (although NGOs complain that many corporations have not yet disclosed the data they committed to publishing). In February 2008 Azerbaijan's government proposed a UN General Assembly resolution in support of EITI. Five months later, Azerbaijan became the only country to publish the eight EITI reports and to launch validation, thus achieving EITI compliant country status.

Throughout this process, space for civil society increased, and reactions by normally critical voices have been positive. "This is a significant milestone and shows that the EITI standard is achievable," said Ingilab Ahmadov, director of the Public Finance Monitoring Centre in Azerbaijan. "We also welcome the establishment of a permanent Multi-Stakeholder Group in Azerbaijan, which we have sorely lacked in the past. This is a positive achievement that has been the direct result of the validation process, and we expect to see a stronger and more robust multi-stakeholder process take root over the next few months."[42] Azerbaijan's engagement with reform seems serious and sustained, but what does that mean in terms of concrete reforms?

42. Publish What You Pay International (2009).

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The goal of President Aliyev's engagement with EITI is better portrayed as an attempt to shore up the status quo and win the regime a degree of external respectability, especially in the context of a closer relationship with the West.[43] Examples of this effort abound, such as the country's hosting of the Transparency International 2007 meeting. Yet throughout the period of EITI implementation, the political situation has remained problematic, with fraudulent elections, high-level corruption, the assassination of prominent journalists, and persecution and torture of political opponents.[44] According to a 2007 Council of Europe report, "The number of political prisoners is not as high as it was some years ago. That is of course a positive development, but we should not confuse such small positive steps with the very problem of political prisoners."[45]

This shows that meeting EITI expectations is not a particularly difficult balancing act for Azerbaijan, because EITI, even when properly implemented, does not pose a challenge to the president's grip on the country or to the oil sector's practice of business as usual. Many of the routes normally deployed to satisfy key internal constituencies (either distribution of contracts or management of revenues) are unaffected by the EITI brand of transparency. If reform did constitute a threat to vested interests and political control over Azerbaijan, it would not have been pursued in the first place. Of course, EITI advocates are the first to say that EITI is not an attempt at systemic change (in the sense of regime transformation, for instance). But since the problems that beset oil-rich but badly governed states are emphatically of a systemic nature, the example of Azerbaijan and its adherence to the letter (if not the spirit) of reform illustrates the circumscribed limits and dubious efficacy of even a successful EITI process. A typical example of this is the March 2009 referendum that changed the constitution to permit Aliyev an unlimited number of presidential terms. To single out a minor EITI technocratic success amid such a degree of regime consolidation is a singular act of myopia.

The published data in Azerbaijan (as in Nigeria) have been certified as valid and often provide an exceptional degree of detail on minute segments of the oil economy. However, these data, especially when made available in raw format, are virtually unreadable by nonexperts, including members of the press who are financially literate. Even when the data are deciphered, it is difficult to get an overall image of the sector from them or to derive politically relevant information that

43. Sergie Markedonov, "Azerbaijan: From Bad to Worse," *openDemocracy,* March 30, 2009.

44. Sabrina Tavernise, "With a Collective Shrug, Azerbaijan Votes for Its Leader," *New York Times,* October 15, 2008; Human Rights Watch (2004).

45. See http://assembly.coe.int/Main.asp?link=/Documents/Records/2007/E/0704161500E.htm.

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can be easily interpreted by the general public. More important, the limits to political action in authoritarian states mean it is difficult to act on this information, even when clear malfeasance is identified, as illustrated by the experience of NGOs, journalists, and the opposition in Baku.

Correcting the Gaps in the Voluntary Approach: EITI++

As Graham Baxter, BP's first representative on the EITI board, pointed out in 2009, it is "easy to be critical about the slow rate of progress which has been achieved in the seven years since the initiative was launched. . . . As a result, the endorsed ambition that EITI should become 'mainstreamed' common practice, and thus cease to be necessary as a voluntary initiative, seems as far away today as it did when the vision was first established."[46] This slow progress of EITI has garnered it considerable criticism. Five issues have been brought forward.

First, the choice of multistakeholder group efforts tends to water down the reform thrust of EITI, as would-be targets for reform come to decidedly affect the timing and terms of the reform process.[47] A second criticism is that the technical complexity of EITI means that it is not always clear that a member is infringing its rules. This problem is worsened by the "neither consistent nor comprehensive" manner in which organizations nominally supporting EITI, such as the World Bank and the IMF, have gone about promoting transparency.[48] Third, even when it is clear that there is malpractice, the lack of sanctions render EITI toothless in the face of free riding.[49] Fourth, EITI's debatable premise that corruption is resented by the private sector and that transparency would motivate investors is not borne out by reality: mineral sector investors have never shied away from involvement in some of the world's most corrupt countries because of the geological imperative of going where resources exist. Finally, the idea that EITI would empower civil society has had unclear results: EITI has not prevented NGO

46. Graham Baxter, "The EITI Story So Far: A Personal Reflection" (www.eitransparency.org/node/692).

47. This said, the most common experience among major oil companies has been nonparticipation in EITI rather than lukewarm engagement aiming at the cooptation of critics. According to a Transparency International survey of forty-two oil firms, only seventeen had signed up. TI also found that disclosures by signatories were not higher than those by non-EITI members and, therefore, that an "EITI effect" had failed to spread. Transparency International (2008).

48. Bank Information Center and Global Witness (2008).

49. Despite rumors that countries such as Equatorial Guinea, the DRC, and Congo-Brazzaville might be ejected from EITI for not fulfilling basic membership criteria, this has not happened thus far. See for example Hugh Williamson, "Poor Governance Can Boot a Country out of the Industry," *Financial Times,* January 28, 2008.

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activists in Congo-Brazzaville and Gabon, for instance, from being arrested, mistreated, or even killed, and incumbents have been able to tame the role of civil society either by not giving it a sufficient role in implementation or by colonizing civil society through the creation of fake, government-supported NGOs that then become pliable partners in corruption.

From 2006 onward a generally revamped effort and an activist EITI board have sought to address some of these criticisms. This has culminated in the World Bank's launching of EITI++, a new initiative designed to encompass not just payments but the whole value chain in the extraction of mineral resources.[50] The initiative is designed to provide technical assistance to resource-rich countries across all dimensions of the extractive industries. Its immediate focus, however, is on the granting of concessions and the negotiation of contracts notorious for corruption as well as "information asymmetries" between governments and foreign corporations. These contracts sometimes result in poor outcomes for resource-rich states. The two states that have sought EITI++ assistance, Guinea and Mauritania, both have had coups in the past year, and their medium-term politics remains unclear. EITI++ seems better tailored to address some of the most significant shortcomings of EITI and provide a more ambitious approach to the governance problems associated with resource wealth. This said, it remains unclear whether reform can ever be meaningful (least of all by a risk-averse agency like the World Bank Group) in instances when empowered domestic actors in resource-rich states are determined to pervert reform or severely circumscribe its impact.

Beyond the Transparency Agenda

While matters of transparency remained central to the reformist agenda, other initiatives also played an important role during the window of opportunity described earlier. Few advocates of the transparency agenda would claim that it was the silver bullet for underdevelopment in resource-rich countries, but others criticized their assumption about direct linkages between transparency and good governance. In many of the countries where resource wealth had not borne the expected fruits, the idea that the population, once armed with the knowledge that there is malfeasance at the top of government, would somehow change the status quo was unrealistic.[51] The additional initiatives were therefore premised on the understanding that other dimensions were equally important in explaining

50. "International: EITI ++ Targets Resource Management," *Oxford Analytica,* July 2, 2008.
51. Hilson and Maconachie (2009).

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poor governance outcomes, most notably the manner in which revenues that did materialize in the central banks of energy-rich states ended up being managed.

Some of these initiatives were phrased in the language of technocratic innovation and macroeconomic reform that assumed the neutrality of the local state and the good faith of local decisionmakers. These efforts saw lack of capacity as a major reason for negative outcomes. This is the case with some of the World Bank's research and policy prescriptions, which focused on stabilization, future generations funds, the management of Dutch disease, and development commissions. In other instances, however, and even while preserving the language of partnership with energy-rich governments, prescriptions were more adversarial and assumed that the leeway of oil-rich governments needed to be curtailed. The argument was that, to bring about the desired developmental outcomes, important aspects of public policy, especially at the level of oil revenue management, should be supervised by the international community. Chad, one of the world's poorest, most unstable, and worst-governed states, was the setting for the first major instance of this latter approach.

The Chad-Cameroon Experiment

The project was reminiscent of nineteenth-century attempts at controlling the public finances of bankrupted states such as Greece, Egypt, and the Ottoman Empire and was appropriately dubbed an instance of shared sovereignty by the political scientist Stephen Krasner.[52] Because Chad is landlocked, the only way to bring its oil onto the world market was the construction of a long pipeline connecting oil fields to Cameroon's Atlantic coast. After years of reluctance on account of the country's security situation, a consortium headed by ExxonMobil finally got the crucial support of the World Bank in 2000 for the building of a US$4.2 billion, 1,078-kilometer oil pipeline.

In exchange for the financing and political support for building the project, the Chadian government had to sign on to a number of apparently constraining agreements, especially in terms of directing revenues to social and economic infrastructure.[53] The Law of Petroleum Revenue Management (the so-called Law 001), adopted in 1999 as a precondition for World Bank involvement, included scrutinized offshore escrow accounts holding direct revenues, a Future Generations fund, and the earmarking of most direct revenues for priority sectors. Law 001 left

52. Krasner (2004).
53. World Bank (2000). For a briefing on the project, see Guyer (2002).

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only 5 percent of revenues for the government to spend at its discretion.[54] The nine-member Revenue Oversight Committee (the Collège de Contrôle), with four civil society representatives, was created to oversee the use of the oil set-aside for priority sectors.[55] The International Advisory Group, a five-expert team appointed by the World Bank in February 2001, monitored the project through periodic trips to the region. In addition, the External Compliance Monitoring Group, under a contract with the International Finance Corporation, specifically monitored the consortium's compliance with the environment management plan.

The arrangement was premised on restraining the Chadian elite's free use of oil revenues.[56] Chad's president, Idriss Déby, was therefore not enthusiastic about the agreement, but in spite of countless mishaps along the way, including fraudulent elections in 2001 and the use of a signature bonus to buy weaponry, he played along with it while the pipeline was being built. Once it was up and running, Déby reneged on important sections of the agreement. Faced with a mounting insurgent challenge from the east (partly a Darfur conflict spillover but decidedly fueled by Déby's own oil-hungry clansmen), the president concocted a solution that to his mind would bring in the additional resources needed to shore up the regime and fight the rebels. Law 001 was to be modified and the pesky foreign intrusion done away with.

The rubber-stamp parliament obliged him in December 2005, despite vociferous opposition by Western donors and the World Bank. The modified law was a shadow of its predecessor.[57] The Future Generations Fund was scrapped and the US$36 million in it gobbled up; defense and administration were added to the priority sectors' list, whose share of revenues fell from 80 percent to 65 percent; and the national budget received 30 percent, as opposed to 5 percent, of revenues. The World Bank, under its new president, Paul Wolfowitz, reacted with rare outrage by freezing an estimated US$124 million in loans to Chad as well as all oil payments to the government.

54. The rest is earmarked as follows: 80 percent for social spending in priority areas (education, rural development, health, infrastructure, and environmental resources), 10 percent for the future generations fund, and 5 percent to the oil-producing region.

55. Gary and Reisch (2005).

56. Kojucharov (2007).

57. Chip Cummins, "Exxon Oil-Fund Model Unravels in Chad; Government Breaches Deal Requiring It to Spend Royalties on Development," *Wall Street Journal,* February 28, 2006; Lydia Polgreen, "Chad Backs out of Pledge to Use Oil Wealth to Reduce Poverty," *New York Times,* December 13, 2006.

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The stalemate continued into April 2006, with President Déby threatening the consortium with a pipeline shutdown if it did not hand over an estimated US$100 million in oil revenues.[58] Chadian officials claimed to be making alternative oil deals with others, such as China.[59] By then there were indications that Western critics were ready to flinch. The ensuing compromise accepted most Chadian demands. The Future Generations Fund was eliminated and its US$36 million kept by the government. Chad revised its 2006 budget, and the World Bank recommenced its loans and released the oil revenues it held. But this April 2006 agreement was only valid until 2007, when the whole deal was again up for grabs, and subsequent developments pointed to continuing unpredictability: claiming the nonpayment of taxes, President Déby went after Petronas and Chevron with threats of eviction.[60] Finally, after two more years of acrimonious relations with the World Bank, the agreement that had been announced with great fanfare in 2000 was quietly dropped in 2008.[61] Throughout, the World Bank scheme or the post-2003 availability of oil revenues made no dent in Chad's poverty level and abysmal human indicators.

In retrospect, the project was doomed to fail. To start with, Chad was an unlikely location to pioneer such an ambitious scheme. The absence of a strong reformist constituency and the character of the Chadian elite precluded local ownership of the reforms. In the absence of this, the work of international bureaucrats alone could never achieve meaningful results. This applies to civil society as well. Despite the courageous work of a few individuals and the illusion of partial empowerment in the heyday of the project, Chadian civil society was too weak, divided, and vulnerable to government repression to be a transformative agent in Chadian politics.

Other Initiatives: Developing Teeth?

After close to a decade of attempts at tackling the governance implications of energy resources and five years pursuing variants of the transparency agenda, there

58. Chad's oil minister, Mahmat Hassan, warned that "either the World Bank unblocks the offshore account and the frozen revenues enter into that account, controlled by Chad, or the oil companies make direct payments." Daniel Flynn, "Chad Confident of World Bank Deal by End of April," Reuters, April 18, 2006. See also Stephanie Hancock, "Chad Threatens to Halt Oil Output," BBC News, April 20, 2006.

59. David White, "The 'Resource Curse' Anew: Why a Grand World Bank Oil Project Has Fast Run into the Sand," *Financial Times,* January 23, 2006.

60. "Chad Tells 2 Oil Firms to Pack Up," *International Herald Tribune,* August 27, 2006.

61. "Breaking the Bank: A Vaunted Development Project Goes Awry," *The Economist,* September 25, 2008.

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are scarcely any overt challenges at all to the normative claims made in favor of abolishing the status quo ante. Below this apparent convergence of views—with stakeholders from all corners of the energy nexus rhetorically committed to some sort of improvement—there is a degree of fragmentation. By far the most important trend is for a quiet return to the tenets of old (which were never really abandoned), now justified by the rise of non-image-conscious Asian companies and the rise in oil prices from 2003 onward. On the other hand, the poor or insufficient results of reform lite, such as EITI, have led some unexpected constituencies to revisit hard regulation as a more appropriate form for tackling these matters.

Perhaps the most tangible recent initiative is that pursued in the U.S. Congress, where an Extractive Industries Transparency Disclosure Act (H.R. 6066) was introduced in July 2008.[62] The bill calls for the disclosure of payments by energy companies to foreign governments for the extraction of natural resources. This information is to be made publicly available. The bill uses the language of shareholder rights, stating that shareholders need to access this sort of information to determine the associated risks of investment in energy-rich countries. The process to achieve this, however, is straight out of the PWYP campaign, with Global Witness enthusiastically describing it as a "low cost but high impact" rule change.[63] The key regulator is to be the SEC, which if the bill ever becomes law will see section 13 of the Securities Exchange Act of 1934 amended by adding a new subsection:

> Each issuer required to file an annual report with the Commission shall disclose in such a report the total amounts, for each foreign country and for each category of payment for each foreign country, of any and all payments made, directly or indirectly, by the issuer or any of its subsidiaries, to an agency or instrumentality of a foreign government a) for natural resources in a foreign country; or b) in any connection with the extraction of natural resources from a foreign country.

H.R. 6066 did not become law during the 110th Congress (2006–08), but was reintroduced as the Energy Security through Transparency Act of 2009 on September 23, 2009, by a bipartisan coalition of prominent senators. Whether it will be adopted by Congress in the current session will be an important litmus

62. See www.house.gov/apps/list/press/financialsvcs_dem/frank_144_xml.pdf (December 2008).
63. See www.globalwitness.org/data/files/pages/myths_and_facts_sheet.pdf (February 2009).

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test for how serious Congress takes the lessons of the global financial crisis and the weak record of nonmandatory approaches to regulation.

Another reform agenda that has recently gained ground is an anticorruption drive best exemplified by the research work and advocacy of the Tax Justice Network. Starting from the understanding that much of the work during the 1990s on these matters was important in pioneering anticorruption agendas, critics contend that the anticorruption orthodoxy is too fixed on country-specific realities (as exemplified by the Transparency International's *Corruption Perception Index*), thus missing the transnational nature of corruption and, most important, the end point for much of the looted revenues.[64] This is not simply a matter of probing the usual offshore tax havens, though these played a role in the international political economy of money laundering. Campaigners went further to prove that banks based in financial centers such as Paris, London, New York, and Zurich were deeply implicated in aiding political elites and multinational corporations to siphon off money toward lightly regulated Western jurisdictions.[65] Approaching the bad governance/natural resources nexus without asking these obvious questions was always going to lead to unsatisfactory and superficial reform efforts, yet these questions played only a peripheral role in efforts such as EITI.[66]

It is difficult to overstate the importance of capital flight from resource-rich states. One of the major advocates of reform of the international financial system, the former banker Raymond W. Baker, argues that the amounts of illicit money involved could be as high as US$1.5 trillion a year.[67] A significant part of this money stems from resource-rich states.

> The loot-seeking elites that control parts of Africa illicitly send capital out of the region to the tune of US$20 [bn] to US$28 bn per year. Illicit money flows are hard to quantify, but this is the new estimate by Raymond Baker of the NGO Global Financial Integrity, the most careful and ingenious study to date. Capital flight of this magnitude is roughly equivalent to the entire aid inflow to the region, so closing it would generate a similar resource transfer to doubling aid.[68]

64. Shaxson (2007).

65. A high-profile case involved the previously reputable Riggs Bank and Equatorial Guinea's presidential family. See U.S. Senate Foreign Relations Committee (2008).

66. Baker, Christensen, and Shaxson (2008).

67. Baker (2005).

68. Paul Collier, "A Chance to Crack Down on Africa's Loot-Seeking Elites," *Guardian,* October 7, 2008.

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Although initially perceived as destabilizing of both the business-as-usual process and the carefully domesticated "voluntary" reform process, this new anti-corruption agenda is gaining (for the time being, still limited) traction with some of the bodies it started by fiercely criticizing, such as the World Bank and Transparency International. The development economist Paul Collier subscribes to the agenda and points out that money "flows out of Africa into our banks, and into the offshore banks that depend for their existence upon being able to transact with our banks." He continues:

> US rules on banking transparency are even weaker than the European rules: vast sums looted from the public purse in Africa are being held in nominee accounts and moved around the world at greater speed than our cumbersome legal processes can track them down. Western legal systems are stacked, thanks to the hired hands of skilled lawyers, to protect the rights of the crooked over the rights of Africa's ordinary citizens.[69]

Outlook: Forward to the Past?

According to Leif Wenar, "Oil is big business; in fact, oil is the biggest business. Five of the ten largest corporations in the world are oil companies, and oil accounts for about half the value of all global commodity transactions: over one and a half trillion dollars a year."[70] Yet in most countries, the profits from oil exports are more likely to contribute to clientelism, corruption, human rights abuses, and conflict than to benefit the broad majority of citizens. This is the direct result of bad resource governance.

Over the past fifteen years the good and the bad have been established as normative terms (along with transparency) in progress toward better resource governance. This is no small feat for the activists and progressive government officials in both the developed and the developing world, who took advantage of an opening

69. Paul Collier, "A Chance to Crack Down on Africa's Loot-Seeking Elites," *Guardian,* October 7, 2008. Leif Wenar even goes further: "Because of a major flaw in global markets, consumers today send their money to tyrants and brutal rebels when they make their daily purchases. This article has suggested that this damaging flow of money can be stopped by enforcing property rules against the middlemen who channel consumer spending into resource-cursed countries: against the international resource corporations, and against the foreign governments that deal with the worst regimes. The citizens of affluent countries can abolish the disastrous 'might makes right' rule by using their own institutions to enforce the basic principles of legal trade." Wenar (2008).

70. Wenar (2008).

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during a period of unquestioned Western dominance in global affairs. The mere fact that this norm managed to challenge the entrenched realpolitik approach, which dominated global energy governance for the past century, is a cause for celebration for all those who care about justice and development.

At the same time, the commitment to the progressive good governance agenda needs to go hand in hand with a realistic assessment of the success on the ground thus far. Here the picture is sobering: the good governance and transparency agenda has not affected the core rules of the game of global energy governance. Instead the agenda has remained only a niche concern, mostly at a superficial rhetorical level. This is due to a number of factors.

—Lack of interest on the part of producers and new consumers. The reformist agenda has not gained traction with pivotal producers (Russia and key OPEC members) as well as consumers now playing a prominent role in global energy markets (India and China). Their public reactions range from the noncommittal to the dismissive, and in no instance have these vital participants in the international economy of energy played a supportive, let alone a furthering, role.

—Lack of commitment on the part of established consumers. Even among governments (such as Germany) and businesses rhetorically committed to the agenda, the commitment to action is weak because powerful constituencies (often economics ministries) hold sway. The United States has thus far, especially during its period of unrivalled dominance, not been a forceful advocate of the reform agenda (due to influence of the business lobby with the Bush administration), although this might change with recent initiatives by Congress and the new administration.

—Lack of leverage of voluntary disclosure. Voluntary approaches such as the Extractive Industries Transparency Initiative underestimate the staying power of reform-resistant elites, who might sign up to the EITI agenda but do not change their clientelist and antidevelopment approach to the energy business—or to state governance more generally. These elites realize that Tony's Blair's promise of EITI as a win-win situation only holds as long as they prevent real change on the ground. EITI advocates also overestimate the power of civil society, however heroic individual efforts of activists in EITI member countries might be, to hold antidevelopment elites to account. No amount of Western capacity building can easily change the power equation that has the majority of capacity in the hands of powerful elites. As John Githongo, the leading Kenyan transparency campaigner, found out through bitter experience, "The [big] fish don't fry themselves."[71]

71. Celia Dugger, "Battle to Halt Graft Scourge in Africa Ebbs," *New York Times,* June 10, 2009.

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—Lack of mainstreaming information into markets. Participants in global energy markets do not factor good governance and transparency concerns into their decisions. There is little to no evidence that investors punish companies with a bad governance record. Private oil companies' ability to raise capital rarely if ever is affected by their governance records. National oil companies have their independent access to capital anyway, as long as their governments remain creditworthy or have currency reserves. The shady world of international oil trading remains immune to reputational concerns. Likewise, private rating agencies do not factor transparency and good governance records into their rating decisions. Western secrecy laws continue to shield oil and gas profiteers. Confidentiality clauses in investment contracts perpetuate obfuscation and corruption. What is more, consumers at the pump do not have any ability or inclination to base their decisions on which gas to buy based on the development stance of the oil company.

Although a coalition of the United Kingdom, Norway, Germany, and other like-minded countries pushed the agenda of good governance in the global energy field during its window of opportunity from 1995 to 2005, the agenda did not succeed. Imagine what a powerful coalition led by the United States and propelled by an enlightened regulatory philosophy could have achieved during the period. Given its unrivalled power situation, it could have locked in regulatory reforms in a way that new consumers, their national oil companies, and the elites in oil-rich countries could not have easily undermined. Today it may be too late to achieve systemic change on the basis of a Western epicenter. The unique window of opportunity seems to have closed with the rise in global importance of countries outside the G-7.

Does this mean a move forward into the dark ages of realpolitik energy governance, rolling back even the modest amount of progress achieved? Not necessarily. Instead, Western countries and activists should increase their efforts to get rising powers into the good governance boat. In the case of China, for example, there are obvious linkages to the domestic Chinese agenda against corruption.[72]

72. Any efforts to establish linkages between the domestic Chinese and the international anticorruption agenda need to be mindful of the fact that the Chinese domestic agenda is driven purely by concerns about the harmful effects of corruption on growth. It is not embedded in a broader Western-style rule-of-law agenda. Anticorruption speed trials and public executions testify to this (and so does the fact that there is still significant support for "good" corruption that speeds up processes and thus contributes to higher GDP growth). We thank Björn Conrad for clarifying this point.

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Proreform constituencies (mainly in the West) still have significant structuring power, such as controlling the nodes of the global financial system (the major stock exchanges).[73] Proponents of good resource governance need to set their aims higher in advocating regulatory answers. Voluntary approaches such as the EITI have provided a valuable service in terms of spreading the word about the need for better resource governance but have fallen short of changing the facts at the heart of the global energy system and on the ground in oil-rich countries. They need to be superseded by binding mechanisms that aim to anchor good governance in the core rules of the global energy game.

Reform-minded consumer countries need to work through their own legislatures and through intergovernmental forums to make reporting and disclosure mandatory. A recent U.S. Senate report proposes concrete steps to turn the G-8 rhetoric on good governance into action.[74] In addition, sanctions should target the most venal of the elites in oil-producing countries. Civil society organizations should launch a campaign to reveal the complicity and linkages of the financial sector and, by extension, of consumers. Now that the global financial system is in shambles and its underlying libertarian philosophy has been at least partly discredited, it should be possible to make a convincing case for abolishing banking secrecy laws. Moving forward on this path, reform-minded governments, corporations, and activists can at least prevent a return to the realpolitik of the past.

Still, good governance is likely to remain only a niche concern. Measures to change this rather dismal trajectory are on the global table although currently not in the cards of the most powerful players. At the very least, the powerful can no longer claim to not know the tragic outcomes of bad resource governance.

73. Thorsten Benner and Ricardo Soares de Oliveira, "Getting Tough with the Petroelites," *International Herald Tribune,* April 10, 2007. This plays to the technological and financial advantage that Western oil multinationals still hold; ultimately it is a self-interested agenda.

74. "The U.S., in conjunction with the other G-8 nations, should require that oil and mining companies listed on their stock exchanges publish country-by-country data on their royalty, tax and other relevant payments as part of routine financial reporting, and ask credit rating agencies and commercial banks to take explicit account of a country's transparency record. . . . The Securities and Exchange Commission and the Treasury Department should encourage the International Organization of Securities Commissions (IOSCO) to develop consistent requirements for disclosure of extractive payments by companies to governments so that all the major stock exchanges require the same information. They should also support an International Accounting Standard for disclosure of extractive payments to governments." U.S. Senate Foreign Relations Committee (2008).

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