

Assessing the Impact of the Extractive Industry Transparency Initiative (EITI) on compliant states: multi-level learning processes and diffusion of transparency, accountability and plurality?

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Abstract:

The EITI Standard is designed to address certain governance failures, specifically corruption and fiscal mismanagement. This is done through the creation of a multi-stakeholder working group meant to monitor the revenue flows between corporations and governments, plus disseminate this information and promote pluralistic discourse about optimizing revenue allocation. The latest version of the EITI Standard encourages implementing the program at the sub-state level as well as the national level. An analysis of the EITI Standard through the single-loop, double-loop and triple-loop learning frames will inform about the degree of societal learning, or change, in relation to the practices of good governance promoted through the EITI Standard.

1. Introduction

Only a few states have legislated transparency along the lines of the EITI. Nigeria is one with an outstanding early successes of the three overlapping audits of the Nigerian EITI (NEITI), which after several years became the EITI Act of 2007 (Shaxson 2009; Alal-i-Martin & Subramanian 2003; Eiti International Secretariat 2012; Nwapi 2014). No one entity has been prosecuted under the NEITI Act in nearly 10 years despite the ongoing corporate abuses and violent conflict that continues in the Niger Delta. Liberia is a second state to legislate the EITI (Rich & Warner 2012; Sovacool & Andrews 2015).

Law is applicable in criminal court; on the other hand, the EITI, the Extractive Industries Transparency Initiative is a global governance mechanism. It is flexible; it is voluntary it is non-enforceable outside of the realm of public opinion. Therefore, the EITI has to be publicized, stakeholders must promote public awareness of it in order to be effective. It is a well-known brand in so far as global governance initiatives are concerned; EITI penetration to the working class is peppered at best. The economy is important to every citizen. The main driver of the

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economy – especially since the economy is effected by industrial mining in the way a small boat is moved by the wake of a larger one. This study begins with the question, are global governance initiatives effective? This is a broad question. More narrowly, is the Extractive Industries Transparency Initiative (EITI) effective.

Effectiveness means that the program is changing the way the natural resource sector is being governed. It also means that multiple voices are heard at the table within the EITI steering group/ Multi-stakeholder group (MSG); and lastly, are economic benefits filtering down to the local level?

The Extractive Industries Transparency Initiative (EITI) is a transparency-based global governance initiative. It is a soft-law set of guidelines meant to undercut corruption and fiscal mismanagement through the use of a multi-stakeholder group (MSG) to monitor revenue flows generated in the extractive sectors. The program is premised on multiple assumptions pertaining to the power of transparency to promote official accountability, public discourse and ultimately, sustainable development outcomes. The program has been successful in promoting transparency; however, official accountability and sustainable development outcomes are not as visible in EITI member states. Therefore, the effectiveness of one of the main tenets of the global governance initiative comes into question.

Global-to-local scales and scopes of natural resource governance (NRG)

Global-to-local and reverberations back up and out. Understanding the Scales and Scope of natural resource governance is a priority for resource-rich states as well as the MNCs that are pulling – on scale – as much as the market demands. The reserves are not sustainable. Gold in Mali, for instance, is estimated to last a decade and a half at current pace. That is not very much time to build a sustainable economy if efforts are not taken immediately.

The economy is governed at the national level. Natural resource governance includes state laws for exploration, extraction, environmental protection, mining and petroleum statutes. The international markets for these commodities weighs in and affects the governance by influencing law through market pressures and corporate decision/actions/strategies. NRG also takes place at the local level as well, where the Local-understanding of natural resource management is embedded in the socio-political structures of the local inhabitants. This includes the traditional

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tribal and ethnic structures as well as the local state offices, mayors, prefects, etc. Power dynamics are in flux at all levels and across all levels creating a matrix of influence that sometimes creates broad socio-economic benefit and other times creates tensions that lead to conflict and even violence. The local level governance institutions are important to NRG more broadly, the relationships, first-hand knowledge, one on one interactions – the Institutional norms, considered ‘informal institutions’ – the localized interpersonal interactions of the people interacting and implementing the –policy. The Relevance of this is that corporations should extend an invitation to communicate with local actors, in the way that the Voluntary Principles of Security and Human Rights (VPs) suggests. In short, in the exploration stage of an extractive project, a corporation should conduct due diligence and seek consultation from the local community leadership learn from the local customs, meet the people on their level and build a relationship (VPs 2015; Quijada 2014). Local customs often favor long introductions before conducting business affairs, “How is your home? How is your food? How is your water? It is good? – These are questions that corporations should be asking the locals before extraction begins. Such an effort can minimize costly violent conflict that could arise as a result of extractives. This is what CSR is designed to do, but the uptake in the corporate culture is short lived if at all.

The EITI effectiveness debate

The debate regarding the effectiveness of the EITI program continues as the program evolves. A new set of regulations were approved in February 2016 at the International EITI Conference in Lima, Peru. The latest version of the EITI Standard expands transparency beyond state-corporate revenue flows to include contracts and beneficial ownership. The expansion is an effort to increase the impact of the Initiative and mainstream the EITI in government and corporate reporting. “The Board believes mainstreaming of the EITI must be considered to ensure that industry transparency is not solely confined to the EITI, thus, it becomes an integral part of the government’s management of their sector. Governments should figure how they can rely less on the EITI reporting mechanisms and make information required by the Standard available in the forms of databases, websites, portals, reports, etc. In this case, EITI reports would pick on the mission of summarizing and analyzing data present in public domain rather than compiling them” (Nadibaidze & Maisuradze 2016, p.16).

Lujala and Epremian (2017, p.58) succinctly encapsulate the issue stating, “Although the chain of logic behind this transparency narrative is widely accepted, empirical studies have so far not been able to show clearly that EITI has had an impact on corruption, resource revenue management, or broader societal and economic development.” – Other studies will show similar findings; the literature review will present nuanced perspectives from [#] multiple studies from within the last [10 yrs] recent decade. Supporters of the program point to individual country successes and progress as evidence of incremental changes toward unmet objectives. Despite the uneven success of the EITI, the international community steadfastly supports the EITI as a mechanism to minimize corruption and diffuse norms of good governance.

Pursuing a Theory of Change

One reason put forth to explain the shortcomings of the EITI is the absence of a *Theory of Change* (Scanteam 2011; GIZ 2016). While the debate about the effectiveness of the EITI is robust, it cannot be denied that governance practices overall are improving in terms of gathering revenue exchange data and publishing EITI reports. At a minimum, states are doing a better job of maintaining data regarding revenue flows from extractive corporations and that information is being published for the public to review, even if societal penetration is limited and sustainable development resulting from the EITI processes is not yet visible. Also, the EITI creates a forum where stakeholders from various interest groups, broadly speaking, from state, corporate and civil society sectors come together to govern the sector through data gathering and reporting. Such an arrangement, while not a perfect solution, does underscore democratic principles of public debate and broad representation. The ‘*Publicizing-cization*’ of data-information for public consumption should be a service provided by the State and underwritten by industrial activities. Industrial activities are nationalized, corporate activities are trans-national and less accountable to the host-country; less invested in the political-economic context. The nature of extractives is that they are well financed, well-resourced and largely self-sufficient. Largely fortified, often physically, but also through contracts and legislation that favor the extraction-for-global-market interests over those of local-content-production.

Benefits of EITI for Host-states

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Benefits exist – beyond wealth development – for countries that join the EITI and complete the 5 Sign-up Requirements, 8 Preparation Requirements, & 7 Disclosure Requirements necessary to progress through the EITI Candidacy period and follow through by maintaining these practices in subsequent years to meet the ‘Retain Compliance Requirements’ (Sovacool & Andrews 2015, p.185). In brief, a commitment to implementing a transparency initiative sends a signal to investors and international institutions that the national government is committed to minimizing risk in the sector, thus it improves the investment climate. Revenue flow transparency reduces risk to reputation and political standing.

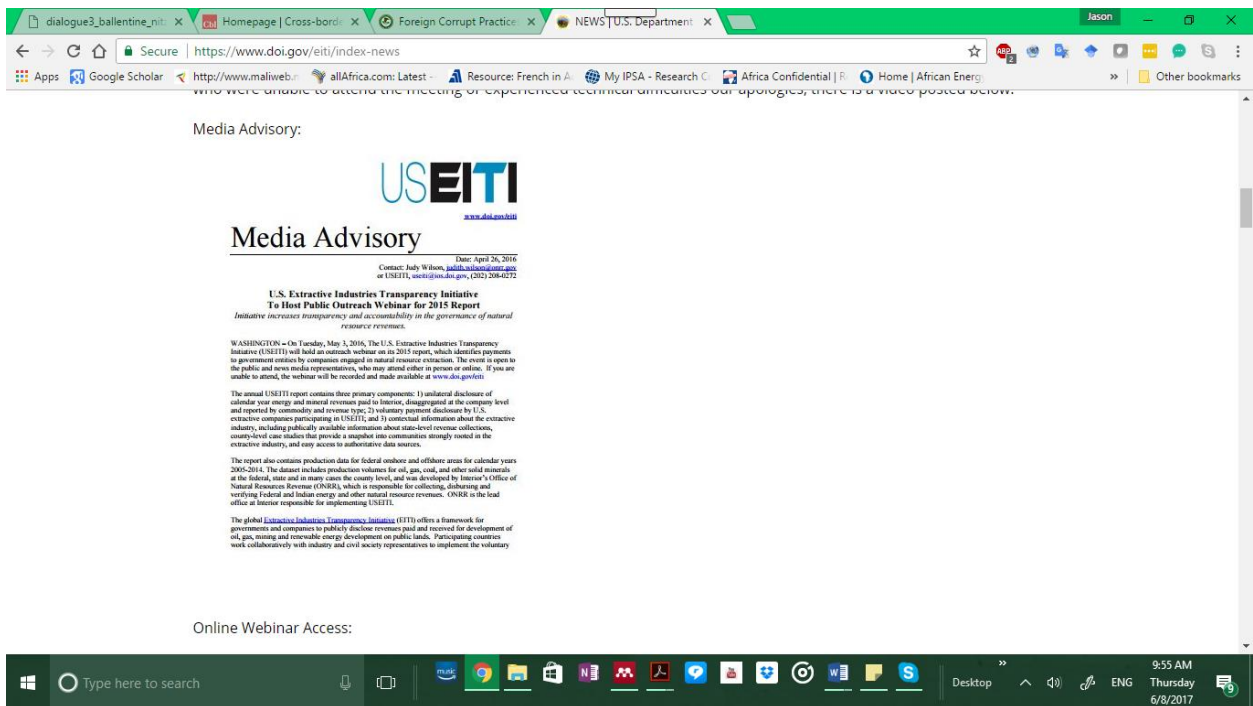
The EITI in this sense is an extension of the US Act to limit corruption. This lowers political and reputational risks for companies and investors. In this sense, the EITI supports the Foreign Corrupt Practices Act of 1977: “the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Specifically, the anti-bribery provisions ... foreign official to influence the foreign official in his or her official capacity ...” (USDOJ 1977). I mention this statute because the EITI is another layer of governance to guide/regulate both US and foreign firms operating in the extractive sector of an EITI member country. This is what it means to be a global governance initiative or mechanism; the initiative is to push transparency into the normal practices of the bureaucracy; while also drawing the corporation in - to a minimal extent – publicizing all revenue *into* the state; but not releasing all of the data related to what is being *extracted from the ground* and from the value of the host-country, the EITI member state..

The neoliberal focus is on the transnational market; more locally, the corporation ‘adds value’ to the commodity by unearthing it and bringing it to market; therefore, its value to shareholders is holds more weight than the generation of local content and host-country economic benefit.

However, the value of the host-country has to become more of a focus of beneficiation. The Millennium Development Goals (MDGs) demand more equity – socio-economic benefit – at the state level in resource-rich states. It is difficult for EITI programs to mainstream the good governance agenda – transparency, accountability and public ownership. The EITI, like other global governance mechanisms, and Corporate Social Responsibility (CSR) departments are relatively small in comparison to the marketing department; and it is sometimes isolated from other departments and divisions. This is true in government where the EITI is not a priority

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across government ministries, only in the purview of certain ministries such as, the Ministry of Mines, Development, and Economy which are at the forefront. Therefore, it is unlikely that democratic values of good governance – transparency, accountability and public ownership are diffused into or across the greater bureaucracy of either the government or corporation. Nonetheless, a study by GIZ (2016) finds that stakeholders are mostly optimistic for the future development and normalization of Transparency as Governance and further developments as the EITI 2016 Standard is implemented in across 50 or so states, minus the United States which has halted, postponed all activities and is considering a withdrawal. The USG has also similarly undermined the Dodd Frank legislation as well, 1504.



Moberg argues that in order to be relevant, “the EITI needs to maintain a strategic focus, with emphasis on: (i) transparency and the disclosure of revenues by companies and government; and (ii) accountability between government and its citizens through the multi-stakeholder group (Moberg 2009). A third emerging pillar: contract disclosure. The disclosure of contracts is an emerging trend among signatory country. Upward of 20 EITI-implementing countries have started to publish details of their contracts (Open Contracting n.d.). The argument presented by the predecessor of the EITI – Publish What You Pay (PWYP) Coalition also includes publishing

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what you extract. Opacity exists around measurement of weight and quality of extraction and the capacity of government and civil society to monitor that from the outside of the operational silo.

This study contributes to the pursuit of a Theory of Change within the EITI program by attempting to measure the degree of social change within and across – the Transnational EITI program, a generalization based on a survey of recent studies evaluating the *effectiveness* of the EITI – a very broad and complicated variable to measure; it has many constituents. I present the triple loop learning framework (Pahl-Wostl 2009) as a potential measurement tool to be applied to case studies of individual states as a way to measure progress along understanding of effectiveness and contributing to understanding what change is within the EITI-Country-Corporation node of interaction, in other words, as a means to evaluate the progress of the program. Following this introduction, the paper proceeds through three subsequent sections. The second section presents the analytical frame and the theory supporting adaptive capacity and multi-level governance systems. The third section highlights trends from the findings. Lastly, conclusions and implications are presented for consideration in constructing a theory of change for the EITI.

2. Literature review

2.1. Debate on effectiveness

The effectiveness of the transparency has been questioned for years – cite sources. And debates from protocol. This study focuses in on a few recent studies specifically looking at evaluating the effectiveness of the program. This effectiveness is difficult to measure because of the size of the field. Good studies have limited effectiveness to three categories, institutional, operational, and developmental thus offering a more focused scope in which to observe. But even with this limitation effort the measurement of effectiveness is challenging and context specific (Basedau 2005). Looking at the links among factors that exist in the specific national history, political, economic and social context(s) offers a better filter for identifying progress and constraints nationally and looking at commonalities/ dissimilarities across states could contribute to a generalized explanation or set of recommendations.

(Rustad et al. 2017) has examined 45 studies using a framework ... categorized the EITI goals into three categories, institutional, operational and developmental objectives. They find that

“studies assess the EITI to have succeeded in reaching its institutional goals and some of its

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operational goals. The early goal of increasing revenue transparency through publicly available annual reports has been reached, while the key goal of engaging the public has been evaluated as only partially successful, with a relative success in terms of civil society groups participation in the MSG but a relative failure in terms of empowering the public to hold accountable the governments and companies.” ... “Yet, given the broad scope of expectations associated with EITI developmental goals, and the strong likelihood of seeing these goals being affected by variables independent from the EITI, developmental goals evaluations are also the ones most likely to deem the EITI a failure.” ... “They conclude “that any evaluation of the EITI needs to be clear about which type of objective it is measuring; whether the EIT can achieve the goal on its own or only with the help of other, simultaneous changes in governance and society; and that an evaluation should not deem EITI a success or failure based on evaluating one or two aspects of the EITI” (p. 23-24).

Sovacool et.al. (2016, p.180) analyzes the performance of the first 16 countries to attain EITI Compliance Status as of 2012 on a variety of governance and economic development metrics over a 9 year period and find “that in most metrics EITI countries do not perform better during EITI compliance than before EITI compliance, and that in most metrics they do not outperform other countries.” This is a significant finding.

The objective of the EITI is to create change in governance. It is meant to crimp the space where corruption and misappropriation of revenues could take place. Still, corruption, or at minimum, the perception of continued corruption pervades most societies in resource-rich extractive states. It is problematic that there is no significant change over nearly a decade period. I want to point out that the multi-stakeholder group is innovative for governance of the sector, but it is very specific in scope and the scale is largely set at the national level, meaning that the program has very little influence on governance more broadly. The MSG is a short tentacle of the MNC connecting it to the interests of the civil society and even while national governments are bureaucracies where ministers collaborate and overlap, the actual activities of the ministries are performed by offices that are often distinct from say EITI steering group/ Permanent Secretary or other EITI designated group of bureaucrats/ technocrats/ civil servants/ managers, etc.

“[t]ransparency alone is not the answer as there are many other aspects of resource governance that need to be factored into the equation for a holistic solution. This point questions the

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transformative potential of transparency” (Van Alstine, J. 2014. Transparency in resource governance: The pitfalls and potential of ‘New Oil’ in Sub-Saharan Africa. *Global Environmental Politics*, 14(1) 20-39).

“The EITI has the potential to make negotiations between governments and companies more complex and cumbersome, since parties involved in the process may be more cautious about exchanging information they know will make it into the public sphere” (Sovacool et. al. 2016 p. 189). In this regard, negotiations between most states and the corporations are largely in the past. IN most cases, or at least a significant number of cases, contracts are already committed to and the Negotiations between states and corporations in the context of the EITI should simply be the communication of revenue data, and under 2013 and 2016 Standard the inclusion of contract transparency and beneficial ownership – to identify any politically exposed owners of firms operating along the value chain of the minerals value chain.

The EITI is a strong effort to change existing structures that extend back to the colonial past where the host-country economy is designed to benefit the metropole in Europe, or elsewhere. Neocolonialism and neoliberal globalization has increased the number of sources of beneficiation as the Multi-National corporation (MNC) extracts raw commodities and delivers them to other countries where value is added once again. The host-country the economy is not considered part of the value chain any longer. The minerals are plucked from the ground where their value is calculated based on an identification category as ‘raw’ material. That raw material is exported to another country where it is processed or refined and resold as a product. The life span of a value chain is from raw material to product. The value added is significant at the end – the sale of refined products.

In many cases, sources of raw materials have to purchase the refined product on the global market price – a price much elevated since the first value added stage of extraction the last time it has the potential to contribute to the local economy in the host-Sovereignty. We must admit that, “[it] is almost impossible to think of the EITI as a panacea for good resource governance or perhaps sustainable development in resource rich countries (Sovacool et. al. 2016 p. 189). I will add, that it currently is not a panacea. However, the vein that runs through transparency and public ownership carries supporting nutrients of democracy that if could capture the attention of the populace-public then social pressures from the ‘bottom-up’ could pressure governmental

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institutions and the actors that populate them to be more accountable to the public. This means the actualization of local development projects that crimp the space that poverty occupies and opens opportunities for local markets to thrive.

This is an issue of wealth and poverty. Poverty is the reality at the site of extraction and the host-government in general; wealth creation/ generation is the objective of the industry in particular. Consider petroleum products that fuel engines of automobiles and airplanes, but also plastics and many other consumer products. The added value of hydrocarbon extraction is significant once it is extracted from its natural deposit. The push and pull of equity is a significant tension.

[This section is incomplete]

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) conducted a broad scale study of EITI implementation and impressions about its success and effectiveness.

(GIZ 2016)

p. 86 Relevance

“The EITI is of relevance to the global transparency and accountability agenda beyond implementation at the national level. The EITI plausibly contributes to global policy frameworks such as the 2030 Agenda of Sustainable Development ... References to the EITI can be found in corporate reporting. Many stakeholders state that the principles of the EITI have been introduced in reforms such as the EU’s Accounting Directive and the Securities and Exchange Commission regulations derived from Section 1504 of the Dodd Frank Act in the US.”

Notable absences: The EITI is directly relevant in 50 countries and thus implemented by the majority of resource-driven countries around the world, noticeable absence of EITI adoption among the BRICS and the largest oil producers globally such as those of the Gulf Cooperation States.

“The initial narrow focus on technical aspects of reconciliation of payments has helped to build trust and to eventually drive the development of the impact-orientated EITI of 2013,” now the 2016 EITI Standard.

The EITI “serves as a diagnostic tool for all stakeholders” by contributing to identification of “risks and weaknesses of extractives regulatory and fiscal regimes.” “It helps governments to

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understand their options for improving governance; it informs companies and investors about risks; it helps donors to design and steer projects; and it helps civil society to discuss key political issues openly or even overcome political taboos safely.” Several new relevant topics have been taken on since 2013 and have been incorporated into the 2016 Standard: beneficial ownership, the role and behavior of state owned companies, production and consumer subsidies, secretive contracts, aggressive transfer pricing, tax non-compliance, plausibility checks to tackle bad deals, smuggling and fraud.”

Pg. 87

“What the EITI requires from implementing countries has been evolving over time. The norms of the Standard were introduced very recently in 2013, have already been altered twice, in 2015 and 2016, and possibly again in 2019.

Effectiveness

Notable absence of an overall strategic approach based on a theory of change.

High effectiveness concerning the institutional objectives (e.g. becoming a global brand, offering a Standard for assessing a country’s compliance) and organizational objectives (e.g. setting up a governance structure with a recognized Board and Secretariat, ensuring civil society participation in multi-stakeholder groups in defective democracies or autocracies); to a much more blurred or less substantiated level of effectiveness when it comes to actual development objectives (sustainable development).

“The EITI is able to contribute to debates on the governance of extractive industries in many countries where such debates were not possible a decade ago. Widely observed, “publishing data is necessary, but not sufficient. EITI implementation is considered most effective when it promotes and informs dialogue between government, industry and civil society and encourages informed debate about the reforms that are needed to ensure that the EI support national development priorities.”

“A key characteristic of the EITI is the demand-driven and flexible approach that allows it to operate and adjust according to the needs of the respective implementing country. This includes the Initiative’s strong cooperation and process orientation in order to document the country’s extractives sector regulatory and fiscal regime and governance processes, and the readiness to I, JJM, present this draft and its content, both original writing and quoted and paraphrased sources – cited sources to frame a discussion. This argument is not fully synthesized - This is a Draft. Do not Cite.

adapt implementation, when windows of opportunity for change emerge.” This has implications for “non-free, deficient democracies or autocratic countries with institutions that are not or partially accountable to the public, vested interests surround the extraction of natural resources to such an extent that protecting the status quo of in transparency and unaccountable practices takes a high priority. In these circumstances EITI implementation can fail to link to actual developmental objectives.”

p. 88 Impact

Umbrella – MSG, coordination across stakeholder groups

The effects of the 2013 Standard/ 2016 Standard have not yet begun to be included in the data sets. These changes are going to be difficult to implement.

Stakeholders and observers have seen the incremental changes over a decade and a half.. the expectation for the future is optimistic for change. “over 80% of stakeholders see a positive contribution to all results areas under review in the GIZ study: these are fiscal transparency, public debate, anti-corruption, trade and investment climate. Stakeholders have expectations for further implementation and normalization to contribute to ‘efficient use of revenues’, ... ‘better management of ecological effects’ ... ‘better management of social tensions’, ‘fiscal transparency’ and ‘Ease of Doing Business’ are future expectations of stakeholders.

There is a difference in EITI impact between ‘stable’ government systems and ‘hybrid’ – weak in many dimensions of statehood.

Civil Society Protocol – the “ongoing shrinking of civic space worldwide coincides with the introduction of the EITI. In order to safeguard civil society participation in the EITI, the Civil Society Protocol was developed by the Board and made part of the Standard in 2015. The Protocol provides guidance for freedom of expression and assembly. Stakeholders widely agree that disclosure of data is not sufficient if it cannot enter the public domain and inform national debate to an extent where transparency can lead to reform.” However, the Validation process does not have a method of testing “freedom of debate” / public debate or (pp. 88-89).

Efficiency is problematic

Sustainability – “The EITI is unified in the approach to make transparency meaningful for the target groups (e.g. Progress Report 2016 – From Reports to Results).

The expanded 2013 and now 2016 Standard is whether or not it is sustainable or will EITI MSGs and Permanent secretaries crumble under the weight of the new data to be reported. The expansion of the Initiative to include other aspects of governance – beneficiation and contract transparency for example. This all becomes problematic in light of the results of a recent study found that not a single one of the EITI countries had met all the governance Requirements of the Standard. (MSI Integrity 2015).

Sovacool and Andrews 2015 – Azerbaijan and Liberia as examples; complexities;

Conclusions the EITI member states have voluntarily joined a program that creates bureaucracy for the sake of transparency and good governance.

2nd, causality cannot be definitely determined; it is difficult to attribute governance improvements to the EITI> I say it is because of the silo nature / isolated nature of the government bureaucracy. The EITI is a small department in a much larger governmental bureaucracy / same as CSR and the EITI in a corporation. These are small departments that do not effectively impress its practices on the larger governing apparatus.

3rd, this study is a small *n* with a narrow analytical framework. There is room for more research along these lines.

4th, many challenges exist to the EITI and its overall effectiveness...

5th, transparency does not equate to accountability, nor does it create a motivation for social and environmental protections.

(Ölcer 2009) Extracting the Maximum from the EITI

- (19) ... the information in the EITI reports lacks quality and consistency, signaling the non-transparency that still dominates the sector and protects it from rigorous external scrutiny. This point has also been raised in the progress report to the management of the World Bank MDTF (World Bank 2008b).
- EITI focus on ‘material’ payments is a problem ... most states are not defining ‘material’ so opacity exists.

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- The EITI does not formally consider transparency at the sub-state level (20)
- EITI does formally consider both the supply and the demand side of corruption (21)

The MSI Integrity (MSI Integrity 2015) study examined the effectiveness of operations of the national multi-stakeholder groups (MSG). The study reviewed and assessed the governance documents of 29 EITI member-state countries and conducted 5 in country visits to observe the MSGs at work. At the time of this study (March 2014) there were 41 candidate or implementing countries in the EITI. The conclusions of this study expressed “significant shortcomings of internal governance in many MSGs” which was added “implicates a failure at the global level of the EITI to ensure sufficient oversight of MSG governance and country-level compliance with the EITI’s core requirements” (MSI Integrity 2015 PG???)

MSI Integrity Assessing the multi-level governance within the highlights four major shortcomings. The first is low levels of compliance and shortcomings in content including, a lack of transparency regarding internal governance; low levels of compliance with the EITI standard; and, the EITI standard does not provide sufficient internal governance requirements. These include:

- i. Not establishing accountability for national secretaries
 - ii. Not requiring guarantees of stakeholder independence
 - iii. Not establishing any requirements regarding the transparency and accessibility of the MSG’s activities to the public.
- (2) Civil society in EITI: Governance processes are failing to ensure the independence and effectiveness of civil society
- (3) EITI Culture: Learning to value the importance of robust internal governance and involve stakeholders in areas of extractive activity
- (4) EITI Global Oversight and Framework: Greater monitoring and incentivizing of MSGs in need. (vii – viii).

Considering the findings of the MSI Integrity study one is led to believe that many of the EITI MSGs are hovering within the first loop. This indicates that the creation of the central governing body of the EITI at the national level is only in the early stages of incremental change

in established practices, simple refinements of existing governance.

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Mostert et al. (2007) identify three categorical factors that promote and foster social learning in multi-level governance systems such as found in natural resource management/governance programs. These factors include, opportunities for interaction, motivation and skills of leaders and facilitators and openness and transparency.

Interaction among stakeholders is essential for social learning to take place. Stakeholder working groups need to meet often enough and engage in meaningful exchange and openness to listen. Additionally, informal workgroups or bilateral contact also help to foster relationships, understanding of alternative perspectives, and a shared sense of collaboration. For instance, bilateral discussions within a MSG helped to resolve historical conflicts between two entrenched interest groups. Without delving into the details of this particular case, it stands as a demonstration of the possibilities of pluralism when engagement in multi-stakeholder working groups is constructive as opposed to contentious (see: Mostert et al. 2007).

2.2. Governance not government

2.3. Democratic values

2.4. Evaluation of the EITI

The assumption that undergirds the EITI is that revenue transparency leads to official accountability. In my opinion, it is not necessarily transparency itself that creates the pressure for accountability, but rather the discourse and public mobilization that could occur as a result of sector transparency. In other words, the EITI encourages states and corporations to publish revenue flows and contextual information in a yearly EITI report. That report is publicized on the internet and also certain developing states have dissemination projects in which representatives from the EITI steering committee visit locations, often in the regions near the extractive activities, to hold town hall-type events to share the findings and receive feedback from the citizens. Citizens are then armed with information that could be utilized to hold officials account. [put N.D. example here...]

The existence of the information in the public sphere does not in and of itself create official accountability, but rather it is likely to manifest when the public questions, acts, and mobilizes to

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express their interests directly to government officials and demand recognition. While there is logic to this expectation, accountability is not a guaranteed outcome. Local interests are expected to translate into investment in local socio-economic development. Essentially, the EITI is premised on the theory of transparency leading to accountability by mobilizing public scrutiny through disclosure.

One recognized deficiency of the EITI program is its soft law status. It does not empower any entity, agency or group to sanction states or corporations for non-compliance. The strength of the program is based on compliance with international norms of good governance and the benefits of maintaining a good international reputation, and the negative consequences of not being a member in good standing and active supporter of good governance.

2.5.Theory of change

One other aspect of the EITI as an initiative, it is also a program and even a policy in that it is a bureaucratic process of the state. It is a public private partnership (PPP) also, the interaction between corporate-state-and-civil society link public, private and social factors that contributes to the milieu of natural resource governance. EITI has been criticized for not have a clear sense of a Theory of Change. To clarify this concept a definition is follows:

A specific and measurable description of a social change initiative that forms the basis for strategic planning, on-going decision-making and evaluation, as well as and thinking through all the steps along a path toward a desired change, identifying the preconditions that will enable (and possibly inhibit) each step, listing the activities that will produce those conditions, and explaining why those activities are likely to work (according to Bennett 2011) (GIZ 2016, p.6).

The structure of the EITI is multi-level, multi-actor, so the scope and scale of analysis differs from point of origin. Change has to be characterized as benefiting the local level. Propelling the society forward. Otherwise, as a neoliberal based institution – I argue that it is market orientated to encourage investment by risk minimization and also neoliberal in that it promotes liberal democratic norms – the EITI has to create structures that generate wealth, not constrain it. This study is relevant because it synthesizes major trends that are effecting the EITI as an institution, beyond a focus on individual national implementation through the triple loop framework.

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Evaluation of the EITI's progress has been the subject of multiple reports in recent years. The results of which contribute to this study.

The effectiveness of the EITI has to be measured by its effectiveness to diffuse good governance. Transparency is being diffused. Public discourse is encouraged and on a minor scale it is increasing or improving because of the additional data in the public sphere. Accountability is not being affected by the EITI. The reasons why have to be further explored, but it may be because of the gap between those with access as part of the elite and the relative weakness of consolidated interests of the general public. Also, the initiative has to be measured for its ability to curtail corruption and environmental degradation – when only one of these is part of its mechanism. The environment is structurally outside of the EITI-institution. The EITI was the international community's response to revelations of widespread corruption and revenue mismanagement in the extractive sectors spurred by Global Witness' (1999) *Crude Awakening: The Role of Oil and Banking Industries in Angola's Conflict* and Human Rights Watch's (1999) *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing* government corruption, war and funding war, in addition to political, social and economic rights violations (Gillies 2010, p.109). Finally, the EITI has to be measured against indicators of sustainable development.

3. Analytical Frame

The analytical framework looks at the developments and outcomes associated with the EITI program in implementing countries. The analysis proposes to offer generalizations about the institutional capacity of the EITI to diffuse good governance attributes by analyzing the activities unfolding in member-states. This study takes a global perspective by unpacking some of the successes and challenges experienced by EITI in implementing states over recent years and identify general trends and challenges then propose recommendations to further the scope of norm diffusion throughout the EITI.

In an attempt to develop a theory of change for the EITI, it is useful to evaluate the types of change and constraints that have manifest thus far. This analysis will be assisted by Pahl-Wostl's (2009) framework for adaptive capacity and multi-level learning which “responds to the resource governance challenge by developing a conceptual framework to analyze the dynamics and

adaptive capacity of resource governance regimes as multi-level learning processes” (Ibid, p. 355).

Change is expressed as ‘learning’ or ‘adapting.’ The single-loop learning “refers to a refinement of actions to improve performance without changing guiding assumptions and calling into question established routines. Incremental changes in established practice and action aim at improving the achievement of goals” (Pahl-Wostl 2009). Double-loop learning is an advancement from the first and expresses a break from existing practices and a shift in approach; it “refers to a change in the frame of reference and the calling into question of guiding assumptions. Reframing implies a reflection on goals and problem framing and assumptions how goals can be achieved” (Ibid). Triple-loop learning expresses a directional change that impacts existing structural arrangements; it “refers to a transformation of the structural context and factors that determine the frame of reference. This kind of societal learning refers to transitions of the whole regime” (Ibid.).

Structural change is the optimal outcome. CORRUPTION AS GOVERNANCE – Political ecology – To the detriment of many resource-rich developing states, corruption has been an element of the governance mechanisms of state agencies. To determine what resource governance actually is one has to consider the contracts between states and corporations that offer permission to explore and exploit mineral wealth in addition to existing national laws, corporate approaches to host communities and corporate policies that guide operations. Long standing structures that scaffold the relationships within the extractive industries (EI) have origins in state affairs from the colonial period. Multi-national extractive companies (MNCs) operating in developing countries originate in industrialized states with colonial histories such as Britain and France, or from states such as the United States, Canada and Australia which did not have colonies in the original sense, but have been accused of being neo-colonial by cultivating patterns of dependence through state aid and corporate control of industry. Structural change can be imagined as domestic control, or at least empowerment in relation to MNCs, but it does not end there. Structural change should mean state control over domestic industries and also society should benefit through allocation of earned resources by the state. Structural change demands increased agency of actors. Agency is complimentary to expanded capacity.

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The development of adaptive capacity within the EITI program is an interesting endeavor because implementation requires a great deal of change in governance structures, exemplified by the creation of the MSG and also changes in technical processes seen in the scope of data collected, audited, reconciled and compiled in annual reports then disseminated to the public. Therefore, a degree of adaptive capacity exists in all implementing states that are earnestly pursuing compliant status. The incremental nature of adaptive capacity is perceptible in its definition, “as the ability of a resource governance system to first alter processes and if required convert structural elements as response to experienced or expected changes in the societal or natural environment” (Pahl-Wostl 2009). To undergird the development of this framework, she identifies four assumptions that support the validity of this framework:

- *Sustainable management of environmental resources cannot be realized unless current resource management regimes undergo a transition towards more adaptive and integrated resource governance.*

Sustainable management of environmental resources must take into consideration the resource nexus ... What contextual factors must be adapted to? It is the fact that the gold mines will be depleted over time, as soon as 10-20 years in Mali’s case.

What is sustainable management? It is a means of prolonging the life of the mines through the use of technology and strategic mining. It also includes development of downstream / side stream industries that can bolster the economic health of local and regional markets. This way societies evolve to be less dependent on extractives for operating revenues.

What is the transition? – The EITI may be preparing a way for transition as it evolves itself it is bringing along governments of member states.

- *Addressing the challenges posed for resource governance is hampered by serious knowledge gaps and the lack of a sound conceptual base to understand learning and change in multi-level governance regimes.*

The knowledge gaps are significant. Capacity building programs are available. These cover beneficial ownership, contract design and other aspects of transparency as governance.

Furthermore the corporations have more resources and leverage ... to invest or explore other

options. This disadvantages states ... as they compete with one another for FDI. The mining codes of the 1980s and 1990s reflect the ‘race to the bottom’ to attract the corporate partners.

- *More emphasis has to be given to network governance and processes of social and societal learning.*

What is network governance? MSG – one of the main advancements and benefits of the EITI. Still networks are limited/ finite ... entities from different interest vantage points are meant to cooperate, but do not fully commit.

- *Resource management is a political process and the implementation of all policies is to some extent and experiment. (Pahl-Wostl 2009, p. 355).*

Multi-level governance systems are also known as polycentric political systems. “Polycentric governance systems are defined here as complex, modular systems where differently sized governance units with different purpose, organization, spatial location interact to form together a largely self-organized governance regime. ... these multifaceted governance systems are “characterized by many degrees of freedom at different levels” ... and the idea of multi-level governance in such systems “implies that decision making authority is distributed in a nested hierarchy and does not reside at one single level, neither top (highest levels of government), nor medium (states/provinces), nor individuals with complete freedom to act or being connected in a market structure only” (Pahl-Wostl 2009).

The four general assumptions above apply to the governance of the extractive sector within the EITI and the conceptualization of multi-level governance will be utilized as points for analysis of the EITI.

The EITI fits the conceptualization of multi-level governance system that experiences varying degrees of adaptive capacity within a variety of contexts. Understanding the correlations between EITI objectives and outcomes benefits from an analysis with Pahl-Wostl’s framework because the framework “revolves around processes of multi-party interactions, embedded in a specific societal and environmental structural context and leading to specific outcomes. A feedback loop between outcomes and context takes into account structural changes in a cyclic and iterative fashion. The context refers to the overall governance structure and the natural environment. ...

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The governance structure has a strong influence on the nature of multi-party cooperation and social learning processes” (Pahl-Wostl 2009, p.358).

The governance structure of the EITI has multiple levels comprised of the international, national and sub-national. At the international level governance is led by the EITI Secretariat and partners such as the World Bank Group, Natural Resource Governance Institute and Publish What You Pay. These organizations provide material and capacity building support for implementation of the EITI. The national level begins with the multi-stakeholder group (MSG) steering committee, a requirement of the EITI program that comprised of government, EI corporate and civil society representatives. Additionally, the national level commonly interacts with the Ministries of Mines and Environment. Local level stakeholders include municipal government, traditional tribal leadership and civil society organizations (CSOs). The multiplicity of levels and interest groups demands that leadership develop adaptive capacity otherwise, the process would seize.

4. Findings

4.1. Statement of problem being investigated

There is no question that the EITI is making a positive difference in implementing states.

- Data collection, organization and dissemination
- States are committed to following through with the EITI reports
- The EITI is expanding as a result governments are / EITI steering committees are challenged with expanding the scope of reporting.

On the other hand,

- The EITI is international soft law and does not carry hard sanctions for non-compliance.
- The EITI may be improving governance processes but it is not improving the overall approach ... the sustainable development outlook continues to be weak.

What is the overall assessment? The program is doing good, but not good enough. Or is it good enough? – This depends on your interests.

Corporations are arguably the most powerful group in the tri-partite arrangement, and their interests must be maintained otherwise, there is no bargain. The issue that the EITI was designed to address is state corruption; yet the program had to be framed as a positive for corporations because without their support the program could not survive. The intention of the EITI is to

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capture more funds for the state to utilize for the public good. However, the original statement of support argued that disclosure of information would enhance corporate governance and reduce investment risks (Nadibaidze & Maisuradze 2016, p.8). The explicit objective of the EITI is to reduce fiscal loss from corruption so those resources could be available for socio-economic development.

4.2. Evolution of the EITI

As the EITI itself evolves and expands its scope, implementing states continue to face challenges related to existing structural constraints. States that have been involved with the EITI for some years are still working, in many cases, to meet all of the requirements outlined in the EITI Principles, and with the additional requirements named in the EITI Standard, obtaining or maintaining compliant status has become more difficult; in addition to increasing the work load, new requirements concerning transparency of ‘beneficial ownership’ and publishing contracts collide with existing privacy agreements between corporations and governments. An example of the increased challenges associated with the expansion of transparency across the EI value chain lies in understanding the concept of ‘beneficial ownership.’ The EITI Secretariat offers a generic definition for ‘beneficial ownership;’ however, each MSG is tasked with developing its own version that must be approved by all stakeholders before it can be enforced. Additionally, the updated protocol for civil society participation creates more challenges for EITI steering committees to ensure an acceptable level of civil society representation. Moreover, outside of the EITI institution changes in international attitudes toward globalization and existing global governance structures create a precarious political environment in which EITI and its member-states attempt stay the course and maintain efforts to entrench transparency in governance norms.

“The Standard ensures that countries implementing the Initiative disclose information on the tax payments, licenses, contracts, production and other key elements around resource extraction. Companies report how much they pay to government (taxes, royalties, etc) and the government on the other hand, reports how much it is receiving from extractive companies operating in its country. These two sets of figures are compared and reconciled by an independent actor and they are published in an annual EITI Report. Thus, the reports grant citizens and opportunity to review how the country’s natural resources are managed and how much revenue they are generating” (Nadibaidze & Maisuradze 2016, p.8).

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Hilson and Maconachie (2009, p.91) claim “those driving the EITI have diagnosed the challenge far too superficially in sub-Saharan Africa.”

“One of the foremost proponents of resource transparency, the Publish What You Pay (PWYP) coalition, argues that “revenue transparency will also help civil society groups to work toward a democratic debate over the effective use and allocation of resource revenues and public finance in order to meet development objectives, improve public services, and redistribute income” (PWYP 2010a in (Haufler 2010, p.59). Moreover, “The broader aim of transparency goes well beyond better resource management, seeing it as a lever to improve governance more generally” (Haufler 2010, p.59).

The EITI Standard debuted in 2013 in the form of suggestions to prepare member states for the latest version, the EITI Standard which was approved February 2016 at the EITI Conference in Lima, Peru. The 2016 EITI Standard has expanded the expectations for transparency to include other aspects of the EI value chain including, contracts, beneficial ownership, and a new protocol for assessing civil society participation. All of which create new challenges for national governments and each EITI steering committee.

4.3.Limitations

This is a qualitative study that synthesizes the results from recent reports that evaluate the progress of the EITI. The findings from these reports are scrutinized through the lens of the triple loop framework to reveal the scope of change across the parameters of the framework.

Additional data input comes from an extensive literature review focusing on the outputs of the EITI and field work conducted in two EITI member states during 2015 and 2017.

A limitation of this study is that two of the reports are written by organizations directly involved in the EITI process and therefore, have a stake in presenting the program positively. One report is the 2016 EITI Progress Report and the second one is published by GIZ, an international partner of EITI Secretariat. The third report was commissioned by another partner, Publish What You Pay, and conducted by a MSI Integrity, an independent consulting firm from the United States. A second limitation is a lack of first hand access to actors involved in the EITI across states. Therefore, judgments within this evaluation will be based on generalizations derived from first hand field work synthesized with published academic studies.

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The design of this study is challenged by the reliance on second hand sources. First hand field work is synthesized with the information from reports; however, the absence of first hand access to relevant actors limits the analytical power of this study because, in addition to evaluating outcomes, this study would benefit from knowing the motivations of decision-makers along the implementation process. An important element of social learning is the existence of both formal and informal networks. It is thought that informal networks facilitate innovation and social learning. The formation of informal “adaptive networks” in early stages of change is essential (Nooteboom 2006); otherwise termed “shadow networks” (Olsson et al. 2006), they produce key leaders and networks that can “prepare a system for change by exploring alternative system configurations and developing strategies for choosing among possible futures” (Pahl-Wostl 2009, p.361). This study lacks insight into the adaptive networks of most EITI implementing states.

4.4. Collaborative capacity

Theoretically, the EITI multi-stakeholder group is a good forum to build collaborative capacity. Woodhill (2010) suggests the implementation of a multistakeholder process works toward collaborative capacity. The process begins with identifying and defining a ‘problem situation’ or development opportunity. Secondly, note the stakeholders involved. Third, identify the tasks and work necessary “across different sectors and scales, setting ‘rules’ for constructive engagement.” Throughout this process it is necessary to be aware that multistakeholder initiatives draw from multiple levels of society and varying sources of authority, thus, power differences and conflicts between groups and their interests will need attention. Stakeholders will need to engage “in learning about and questioning their beliefs, assumptions and previous positions” (Woodhill 2010, pp.35–38).

Mostert et al. (2007) identify three categorical factors that promote and foster social learning in multi-level governance systems such as found in natural resource management/governance programs. These factors include, opportunities for interaction, motivation and skills of leaders and facilitators and openness and transparency.

Interaction among stakeholders is essential for social learning to take place. Stakeholder working groups need to meet often enough and engage in meaningful exchange and openness to listen.

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Additionally, informal workgroups or bilateral contact also help to foster relationships, understanding of alternative perspectives, and a shared sense of collaboration. For instance, bilateral discussions within a MSG helped to resolve historical conflicts between two entrenched interest groups. Without delving into the details of this particular case, it stands as a demonstration of the possibilities of pluralism when engagement in multi-stakeholder working groups is constructive as opposed to contentious (see: Mostert et al. 2007).

4.5.EITI Progress Report

The Outgoing Chair of the EITI, Claire Short, writes in the 2016 Annual Report that “resource rich states have to be in better shape to take full advantage of the next commodities boom” (EITI 2016a). In the same report, Jonas Moberg, Head of the EITI International Secretariat writes in praise of the latest 2015 EITI country reports that he is “more confident than ever of the EITI’s value in improving the governance of the sector” because “[C]onversations in implementing countries are now less about events and technical processes, and more about what the EITI reveals about improving the extractive sector and making suggestions about policy” (EITI 2016a). These statements indicate both an expectation and recognition of positive change. This change is the focus of this study.

The significance of Short’s acknowledgement that many resource rich states were not prepared has to be understood in context. Campbell (2004) identifies three generations of mining codes in Africa. The first generation were implemented in the 1980s during the period of Structural Adjustment Programs (SAPs) designed to liberalize markets in developing states. The mining codes from the 1980s were characterized by state withdrawal from regulating industry. The curtailing of regulation and opening of markets internationally were meant to encourage foreign direct investment. During the first half of the 1990s the second generation mining codes were being implemented. These recognized the need for certain forms of regulation, specifically environmental protections; however, oversight did not fall under the purview of the state, but rather private, (non-state) actors. The third generation mining codes emerged in the late 1990s and begin to reestablish a role for state entities in a process of ‘re-regulation’ (Campbell 2004, pp.7–8). Even as the state begins to reestablish a role in the governance of the EI, capacity in many developing state contexts are weak.

In some cases, governments have been ill equipped to manage EI sector because of the “complexity and rapidity of change” (Ponte et. al. 2011). State governments do not always have the capacity to monitor and regulate the expanse of the extractives value chain (Migdal 1988; Beasley & Persson 2010, p.3). Often they are outmatched by corporate negotiators in the contract development phase. Multi-national corporations (MNCs) often demand ‘accommodating tax regimes’ to cover corporate ‘risk premiums’ which offset the additional risks of operating in Africa (Jacobs 2013). Revenues owed to governments are diminished by subsidies and incentives, but also due to a ‘high incidence of tax avoidance by mining companies conditioned by ... secret mining contracts, corporate mergers and acquisitions, and various “creative” accounting mechanisms (Lambrechts et. al., 2009, p. viii in Campbell 2013). Furthermore, some MNCs based in OECD countries “adhere to lower business, human rights, and environmental standards in Africa than they do in their own home countries” (Oshionebo 2009, p.25). The legal arrangements favor MNCs, while the extractive sector in developing states is not generating enough revenues to create net wealth to make a significant impact (UNCTAD, 2005; UNECA 2005, 2009) in (Akabzaa 2013, p.104). The developing state continues to be disadvantaged in relation to well-resourced MNCs, yet ...

Moberg’s statement indicates that strides are being made in EI governance through the EITI. This may imply that ‘learning’ and ‘adaptive capacity’ building are underway. He makes the argument for on-going structural change by highlighting a shift in focus of policy makers from a focus on technical processes to policy shifts along the value chain, beneficial ownership, contract transparency, the opening up of commodity trading and artisanal mining. Furthermore, he remarks that “[T]hese issues could not have been foreseen under the EITI five years ago” (EITI 2016a). These highlights are positive and do indicate a shift in existing governance structures. The question is whether the change, adaptations of capacity, are sustainable. Furthermore, in most EITI implementing states, transparency along the value chain is primarily in the discussion stages; little enforceable action has been taken in regard to publicizing beneficial ownership, contracts and regulation of artisanal mining. The implication is that member-states are operating within the first or second loops of adaptive capacity on these issues. Structural change continues to be off in the distance, if it is obtainable at all.

5. Findings

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Transparency is the central focus of the EITI. The focus on revenue transparency has expanded to include transparency of other elements of the EI value chain. Transparency is monitored through the governance innovation of including civil society representatives on the national MSG along with established governors representing the state and powerful corporate entities. These are positive developments in the technical and normative facets of governing; however, the down-stream objective of increased development encounters obstacles, some are known and expected, while others may not be. While the implementation of the EITI is adroit at enhancing transparency at the governance level, it fails to follow through on the first Principle of the original statement agreed upon at the Lancaster House Conference in 2003:

We (EITI) share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts (EITI 2016b).

The statement declaring a ‘belief’ is different than one setting an objective; nonetheless, the reality over time reveals a *sustainable poverty* that arguably is exacerbated by the EI, whereas the *belief* claims that EI is an engine for development.

According to the EITI 2016 report (CITE) implementation of the policy program is impacting 49 countries at this point. These include states that hold the classifications of candidate, compliant, suspended and those that have submitted candidature. Currently, thirty-one countries are compliant. Compliant with the caveat of compliance with the 2011 rules. Of course this indicates positive momentum in these countries; however, according to MSI Integrity (2015), none of the Multi-stakeholder groups are in compliance with the latest version of the EITI Standards that were introduced in 2013 and adopted in 2016 to be implemented by 2020.

Theoretically, as well as practically, the candidacy phase of the EITI places member states within the first loop of the framework since there is an acknowledgement at the state level that the status quo will benefit from refinements in the governing process. The EITI program includes an intensive process of designing a work plan, collecting the data reports from multiple corporations and receipts from the government, in addition to developing contextual information that illuminates the data, auditing and reconciling the data, drafting and publishing annual reports and developing a dissemination program to share the results across society.

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The question arises, however, as to whether or not the accomplishment of reaching compliant status always indicate a progression to the second loop, one in which there is a reframing of purpose and examination of existing guiding assumptions. Aaronson (2011) points out that the EITI faces multiple challenges due to the objective and scope of the program.

The EITI partnership is not as effective as it could be for three reasons: 1 the partners (governments, civil society, and business) have different visions of the EITI. 2. Some implementing governments have not allowed civil society to participate fully in the process or have not consistently provided civil society with the information they need to hold their governments to account. In this regard it is a limited partnership. 3. In many participating countries, the public and legislators may not be aware of the EITI. ... [t]he public is essentially a silent partner (Aaronson 2011, p.51).

These three issues exist in 2017 to the same extent that they did in 2011. The EITI is a framework designed to diffuse norms of good governance, and therefore, is a tool to cultivate a 'learning' process for stakeholders in the extractive industries. Centering on expanding normative process of transparency, the EITI evolves beyond revenue transparency to include other elements of the extractive sector. The expansion of the EITI compels further adaptation by governing bodies. As a result, changes occur in technical processes of governance and discourse inevitably follows. Yet, accountability of leadership within the three stakeholder groups does not always manifest. Accountability from leadership and socio-economic development are the objectives of the EITI that indicate the structural change that was known to be lacking in the 1990s that prompted the creation of the EITI in the first place.

---Issues Civil Society Access and Support

Interaction is imperative however, in some cases the state is insulated from the public. By /elitist/ outlook that assumes the state employees have the resources, knowledge, network and capacity to design and implement a project. And the community level lacks all of these attributes.

Rural communities are most directly affected by the extractive industry operations, yet in many cases, they are not equitably benefiting from the capital generated by the industry. This is due to a distance between the local community and the elite-dominated decision-making forums relevant to the sector management and revenue allocation. Citing experience from Cameroon and

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Peru, Gonzalez-Espinosa and Klein (2013, p.120) characterize EITI implementation as an “elitist undertaking” involving “Ministers, CEOs, NGO directors, diplomats and so on, but for the time being, ... communities on the ground, directly affected by extraction, have been neglected.”

State implementation begins with the universal requirements of publically committing to the EITI program and assembling a national level multi-stakeholder working group (MSG) drawing from the domestic pool of government, corporate and civil society actors. Therefore, the implementation of the EITI at the national level is a social initiative that demands participants have the capacity to negotiate what the goals ought to be and how best to achieve them. Progress on this front gives a sense of social learning. The conception of societal learning leaves one to consider the potential for structural reconfigurations that fix existing problems by utilizing new ideas and practices that have profound effects on societal structures that improve the context for broader benefit.

5.1. Critique of the validity of appropriate theory and research literature

The evolution of the EITI Standard – embedding lessons. The EITI Standard was adopted in 2013 to replace the 2011 EITI Rules. The period between 2013 and 2015 is a transition period for member-states. It is understood that from 2015 onwards, countries will be validated under the latest version of the EITI Standard. May 2016 the EITI agreed on the Validation Guide and more detailed validation procedures, including standardized terms of reference for the validator.

---Issue 2. Evolution of the EITI adds complexity

Looking back at 2010, “With increased activity came delays, along with questions about the effectiveness and impact of EITI. Of the 22 countries whose original validation deadline was March 9, 2010, only three completed the process on time; 16 others got extensions, two were delisted, and one was suspended). While the spike in the number of total reconciliation reports should be celebrated, the results of validation that assesses the quality of those reports as well as the implementation process have been mixed. Only five of the 17 countries whose validation has been reviewed by the EITI International Board achieved compliant status.” (Dykstra 2011, p.2)

Examples of this taken from field work interviews in Bamako, Mali in 2017 revealed. That the MSG does now have a document outlining the protocols of the steering committee. It was published as recently as December 2016 in response to requests from the EITI Secretariat to

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move states to be compliant. In Mali, the document identifies a committee that resides over the national steering committee led by the Prime Minister and includes the Minister of Mines and Environment among others. Multiple members of the EITI Steering committee pointed this out as a show of commitment to the EITI by the government. While this is certainly so, such a group undermines the independence of the steering committee. Two members of civil society interviewed in Bamako mentioned that they are free to state their opinions during the decision-making process, while others from government and corporations are sometimes less likely. It was explained that some members of the group representing the government do not regularly express their own opinions because decisions are made outside of the steering committee.

The second shortfall, that of governance processes failing to ensure the independence and effectiveness of civil society takes many forms. In Mali, the civil society is robust and active in the EITI process as well as other aspects of natural resource governance. However, civil society groups have been pressured even suppressed in places like Kazakhstan.

“It is particularly noteworthy that respondents identified protection of civil society against intimidation and harassment as a top priority for future improvement. Unfortunately, the Rapid Response Committee of the EITI International Board has intervened in several cases when civil society members were facing threats or intimidation related to EITI implementation. While these reactions should be encouraged to continue when circumstances escalate, more preventative measures should be taken to ensure the security of civil society participating in EITI. Clearer elaboration of civil society’s role and ensuring that other stakeholders respect that role should be incorporated into EITI Rules. This should include further clarification that civil society representatives on the MSG should be independent of other stakeholders and selected by civil society” (Dykstra 2011, p.5).

Number three, learning to value the importance of robust internal governance and involve stakeholders in areas of extractive activity. In the Malian case, the MSG is working with the World Bank on plans to decentralize the EITI across the mining regions establishing MSGs and building capacity at the local levels.

Ghana first Candidate Country to focus on mining only ...extended EITI reporting requirements to the sub-national level at an early stage in the process...

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Lessons:

- Ghana has planned and communicated sub-national implementation right from the beginning, which proved as an advantage.
- 4 types of reporting templates were designed, specifically at capturing revenues flows at the district ... challenge: reporting templates are only considered by district assemblies and not by the stools and traditional authorities, who also receive significant disbursement from the government.
- 2nd move the EITI process forward quickly and in a timely manner ... progress has been slow.
- 3rd stake holder engagement is a key indicator for ensuring the successful implementation of the EITI, stakeholders must be committed to the initiative.
- 4th the EITI process should remain manageable in terms of decision-making and implementing capacities. Should not focus on building extensive governance structures but finding the simplest way to move the initiative's implementation forward ... (Eads et al. 2009, p.52)

One of the primary objectives of the EITI process is informing the citizenry about the levels of revenue transfer between extractive corporations and the government. The United States is a recent addition to the EITI and because of its advanced technological infrastructure it has the capacity to package this information on its website and provide access to the citizenry. As Greg Gould, the Director of the US office of Natural Resource Revenue states,

“This is the public's money. To have a process that is very transparent and open with how that money comes in and how it's dispersed is critically to all of us” (EITI 2016, p. 13).

Peru Dissemination

- Remaining on the public agenda = continuous presence so as to maintain interest. Rather than putting information out periodically, a continual flow of information should be generated. MIMs disseminate 'findings' on a weekly basis, plus other more elaborate materials and offer information on demand via a web platform
- Identifying and targeting audiences more effectively –

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- Providing focused action orientated feedback to mayors – periodic general grading of municipal performance, as well as other survey information, bring information to mayors
- Promoting a culture of accountability – two way flow of information establishes trust with municipal authorities and officials. – publish measures of social accountability ... performance comparisons in terms of outputs and outcomes, across MIMs ... identifies good and bad practices and motivates weak performers (Eads et al. 2009, pp.67–8)

Revenue recovery in Nigeria (EITI progress report 28) is positive, but the gap remains because of a lack of measurement as to how this money is benefiting the local communities. Especially those that are directly impacted by the extractive operations.

The greatest challenge that I see facing the success of the EITI is identified in Principle #4. “Public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development” (EITI 2016, p. 34). The gap between public knowledge of revenue flows and other aspects of governance conspire to maintain a status quo that in some contexts manifests in corruption at worst and lack of focused expenditures at best.

Due to the weak internet infrastructure, capacity to post information online in a clear way that can be consumed by citizens, many EITI dissemination programs take the form of public gatherings and announcements. These do provide the EITI with a sense that the will and support exists to disseminate the information. But, I argue that these forums are limited in their ability to inform broad swaths of society. Once these events end, the gap between society and the EITI process reemerges.

The Democratic Republic of The Congo has been EITI compliant since July 2014; however it is considered to have one of the most advanced EITI publication processes. DRC has published reports from 2007 to 2015. The MSG< the national Committee and Stakeholders particularly in the government and the private sector have objectively improved the efficiency of reporting. Evidence of social learning can be seen in the fact that ‘Data collection has been reduced from one year down to four months as stakeholders become accustomed to what is required and approval from within their constituencies. With the EITI Report’s lag time decreased to nine

months after the end of the fiscal year and coinciding with the budget discussions, the 2015 Report may lead to a step change in the country” (GIZ 2016, p.71).

5.2.Elements, hypothesis, research questions

The EITI is by design meant to change the structural / institutional ... practices ... Shift the structures to be more equitable and institutions to be ... It makes sense to incorporate the reporting/ disclosure process into a timely routine, as the data is created it should be released. This would be a gesture by the government to be transparent and communicate with society about the health of their extractive sectors.

To leave the EITI outside of a routine and keep it as a ‘catch up’ process in which the data from a couple or three years ago is compiled, audited and reconcile the data is less efficient and more opaque because those outdated numbers do not have the same impact on the current discourse. That revenue is in the past and likely gone, while more timely information about current monies will allow for a more immediate discussion about where and how that money could be spent to support the broader society.

The second challenge is for states to use the information to turn recommendations into reforms. The EITI is a reformative program. In its early iteration it was meant to limit the space available for corruption to take place. The disclosure of revenues received and revenues paid is meant to show possibilities of missing capital. This objective is enforced further by the normalization of disclosure practices. Furthermore, as revenue transparency becomes a normalized practice the concept of transparency is expanded further to aspects of the extractive sector value chains. This sort of scrutiny will identify gaps in good governance practices and through the MSG and other inclusive methods, new ideas for improved, more efficient and equitable management practices may be implemented.

The third challenge is a deep cutting one. The disclosure of beneficial ownership strikes at a tap root of practices of rapacious elites. As it stands now, government and business elites are able to hide their personal benefit which may often amount to conflicts of interest based on their political power to sway licenses and contract granting ...

Lastly, the out going Chair challenges states to broaden inclusiveness and citizen participation.

This is remarkable because in many developing states the regimes are often centralized, or in the I, JJM, present this draft and its content, both original writing and quoted and paraphrased sources – cited sources to frame a discussion. This argument is not fully synthesized - This is a Draft. Do not Cite.

process of decentralization ... both systems of which are reliant on national and local elites. Such practice has the potential to marginalize certain voices those that very often are most impacted by the industrial operations of the sector. The term that the EITI Secretariat uses is ‘country ownership.’ This idea returns back to the liberal democratic values that the EITI is designed upon. The natural resources are a public good and owned by the collective society. The benefit should be distributed in a way that supports the broader society and not just those with particular position and access.

Disconnect between the national eiti secretariats and local level actors. Data from field work in Mali suggests that the state apparatus often disregards the local level because of a perception that the state has the resources: monetary, knowledge, capacity that is perceived to be lacking at the local level. On the other hand, the MSG is considering plans for decentralizing the EITI across the mining regions. – Example of single loop. One informant claims that ‘a bit more investment at the local level would go a long way in terms of building capacity for civil society organizations to learn about and build capacity to participate in the management of their natural resources.

The fact is that in many EITI implementing states the EITI process is controlled at the national level. Structural barriers exclude the participation of local level actors.

Another issue that undermines the saturation of the good governance agenda is the fact that often the society is not aware of the program and therefore, without knowledge of the activities on going by the ministry / eiti secretariat they are left in the dark and cannot mobilize a consensus about these issues. It is imperative to the process of entrenching the transparency as a common practice ... which has the potential to close the gap between state and society is to improve the access to information and additionally, actively disseminating this information.

6. Conclusions and implications

The first EITI implementing states began their candidacy in 2004. As with any new policy programs they have experienced positive gains, but also meet with many forms of constraints. Processes of change are ongoing; however, in many countries exists a fragile progress. One that is hampered by waning political /support/ as well as contextual issues that obstruct embedding the transparency initiative into normal practice.

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This analysis is not meant to be a criticism of the EITI policy program, but a nuanced analysis of successes and gaps experienced across the EITI internationally. Theoretically, the EITI benefits the host-country in a number of ways, better governance, increased public revenues, civic debate about how to invest resource-derived capital. Yet, the stratification of socio-economic order in which the state and corporate elite are separate from the general public – in which all are working, many working poor living on under \$2 USD per day. Practically, the EITI does not work well because the transfer line of civil society organizations' membership on the EITI MSG is far too narrow to reach a majority of the public. More of a commitment to public debt is necessary to drive the institutional norm of transparency to be powerful enough to capture accountability.

The EITI Standard is targeting important governance failures that undermine transparency and dissemination of information to the public that combined can reinforce government accountability.

The EITI is a program implemented at the national level where a sense of ownership is cultivated as the program becomes tailored for that state by these actors. It inevitably reflects the political values of that particular context. As a result, gaps exist between the implementing political-corporate entities and the broader population.

The population is represented by civil society in this process, but even these actors may become politicized due to the access that they gain. A disconnect exists between those on the 'inside' and those on the 'outside' of the transparency process.

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