

The background of the book cover is a composite image. The top portion is a dark, textured blue. The middle section is a light blue horizontal band containing the editors' names. The bottom portion is a detailed, colorful photograph of a mineral specimen, possibly a rock or ore, showing various colors like blue, yellow, and brown, with some dark, irregular shapes that could be mineral inclusions or fossils.

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EDITED BY
Aled Williams and Philippe Le Billon

Corruption, Natural Resources and Development

From Resource Curse to Political Ecology

Corruption, Natural Resources and Development

From Resource Curse to Political Ecology

Edited by

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Introduction

Aled Williams and Philippe Le Billon

Corruption is frequently recognized as a major contributor to poor development outcomes from natural resources. Natural resource sectors not only provide fertile ground for various forms of corrupt practices; corruption is often embedded in natural resource management systems themselves.¹ Resource sectors, from this perspective, can motivate and facilitate corrupt practices, especially given the vast revenues usually involved, the remoteness of many operations, the confidentiality of most contractual arrangements, and the discretionary power of government officials exercised over ‘national’ resources. Corrupt practices, in turn, can undermine resource management policies, reduce revenue collection, damage the environment, erode trust in the state, and exacerbate socio-economic inequalities. Heavily influenced by the *resource curse* or the *paradox of plenty* paradigms,² much of the academic literature on corruption and natural resources emphasizes the distorting effects of resource wealth on economic performance and governing institutions. Development economists Ivar Kolstad and Tina Søreide (2009: 214) characterize corruption as ‘*the development problem in resource-rich countries*’. The diversity of development outcomes among resource-rich countries has motivated major efforts to identify explanations and remedies, with anti-corruption initiatives figuring prominently among these.

Engaging with this growing body of literature and initiatives, this volume seeks to contribute to contemporary debates over resource-related corruption and anti-corruption policies. Drawing from cases across the spectrum of resource sectors, we specifically point at the value of more nuanced understandings of ‘corruption’ to offer useful pathways for researchers and anti-corruption reformers. By recognizing corruption as a form of governance in itself, rather than simply an exceptional deviance from ‘good governance’ to be remedied through ‘tougher controls’, we hope to inform more grounded understandings of corruption, and to help refine more effective policies. Reaching these objectives, we suggest, rests in part on bringing a ‘political ecology’ perspective into studies of corruption to better grasp the interplay of uneven power relations with

the materialities, social histories, and political economies of specific places and resource sectors.

As discussed below, our argument here is threefold: First, that the analysis of governance challenges in natural resource sectors typically found in the resource curse literature does not pay sufficient attention to the particular *contexts* and *incentives* shaping corruption in a broad range of settings. Second, that a recent flourishing of social science research on corruption has led to improved understanding of the need to explicitly address the *political character* of corrupt practices. And third, that the conceptualization and treatments of *power relations* in the political ecology literature offer useful avenues for understanding decisions to engage (or not) in corruption.

BEYOND THE CURSE? RECENT TRENDS IN RE-FRAMING NATURAL RESOURCE SECTOR CHALLENGES

Scholars have recently explored resource curse challenges from perspectives that mark a departure from the typical national-level comparative cross-country analysis found in earlier literature on the curse. The inclusion of subnational variables and processes, such as local political elections and decentralization, have allowed for a more refined analysis of the effects of resource wealth and dependence (Monteiro and Ferraz 2010; Arellano-Yanguas 2011; Libman 2013; Loayza et al. 2013; Cust and Viale 2016). New studies have also examined more closely the specificities of different resource sectors, broadened the scope of processes affecting the impacts of resource sectors, and examined possibilities of reverse causality (James 2015). Engaging with the political economy of policy reform in resource-rich countries, Arezki et al. (2011), for instance, argue that successfully navigating the particular contexts associated with reform processes is a precondition for reaping the benefits of resource wealth, hence pointing to the importance of politically negotiated settlements. McNeish and Logan (2012) provide a set of historical studies on the socio-economics of oil and gas in countries stretching from Northern Europe to the Caucasus, and argue that the role of social movements has been under-represented in analyses of extractive industry success stories emphasizing the quality of government institutions. At the same time, interest has been growing in studying resource-related corruption beyond the high-value extractive sectors (oil, gas and mining) typically addressed by resource curse scholars. Recent studies

have covered the land, wildlife, forestry and fisheries sectors from a range of analytical and theoretical perspectives. For example, Chinsinga and Wren-Lewis (2014) show that despite demand for reforms on the part of investors and members of the local population in Malawi, corruption played a role in highly uneven and inefficient land distributions there. Applying the concept of state–corporate crime to an analysis of corruption in Senegal’s marine fisheries, Standing (2015) argues that the home governments of foreign fishing fleets have knowingly supported corruptly gained access to overfished Senegalese stocks vital to local food security. Several studies have also sharply criticized the resource curse paradigm (Di John 2011), not only questioning its empirics (Brunnschweiler and Bulte 2008), but stressing that the so-called ‘curse’ is the outcome of policy decisions rather than structural factors (Saad-Filho and Weeks 2013). Taken together, these studies indicate an ongoing scholarly preoccupation with re-framings of natural resource sector challenges in developing countries in ways departing from a resource curse perspective and, at times, challenging some of its core assumptions.

ADVANCES IN CORRUPTION RESEARCH: THINKING POLITICALLY ABOUT CORRUPTION

Recent theoretical work on corruption has combined principal–agent, collective action and corruption-as-problem-solving approaches to enhance our understanding of corruption, notably by thinking more *politically* about corruption, and thus about its function within processes of collective decision-making. Principal–agent theory still shapes much mainstream understanding of corruption and its impacts on development (Marquette and Pfeiffer 2015). In this perspective, corruption is presented as a *double principal–agent problem* in which ‘imperfect’ formal institutions in charge of controlling corruption fail to prevent agents from opportunistic corrupt behaviour: either political leaders tasked with monitoring bureaucrats (agents) fail to adequately supervise them, thus enabling opportunistic rent extraction, or the imperfect control of officials’ behaviour affords them discretion to abuse their position (Rose-Ackerman 1978; Klitgaard 1988; Bardhan 1997). While the prevention of corruption through control mechanisms can be valuable, the weak track record of anti-corruption interventions has contributed to a revisiting of these theoretical assumptions. In contrast, critics of the principal–agent view (Persson et al. 2013; Mungiu-Pippidi 2006; Rothstein 2011) argue that corruption should rather be seen as a *collective action problem* through which individual perceptions and intra-group trust influence the

collective aims of groups (Elster 1985; Ostrom 1990; Seabright 1993). This alternative view of corruption suggests that, in supposedly ‘endemically corrupt’ contexts, the rewards and costs of engaging in corruption are such that it should be understood as the *expected* behaviour rather than an aberration from the norm. In other words, there is little or no incentive to oppose or even abstain from it (Persson et al. 2013). Whereas proponents of the collective action view tend to emphasize the ways in which it differs from principal–agent thinking, Marquette and Pfeiffer (2015) propose approaching principal–agent and collective action thinking as complementary frameworks for understanding corruption challenges. In this view, which we share, corruption should not only be seen as a ‘problem’, but also as a ‘function’ within social, political and economic transactions. In many countries, discretionary control over the allocation of resource rights and uses is key to sustain patronage networks at a variety of scales (van de Walle 2001). As Nelson and Agrawal (2008: 557) demonstrate in their study of community-based wildlife management reforms in southern African countries, institutional reforms are ‘largely dependent on state authorities’ patronage interests, which in turn are shaped by the relative economic value of wildlife, the degree of central control over commercial utilization, and the accountability of governance institutions’. Despite their often contrasting perspectives, these theoretical approaches all emphasize the importance of carefully considering the incentives of people engaging in corrupt practices, including for the sake of designing more effective anti-corruption policies.

POWER, CORRUPTION AND RESOURCES: INSIGHTS FROM POLITICAL ECOLOGY PERSPECTIVES

Through its empirical dependence on cross-national governance and development indicators, the resource curse literature has often lent itself to historical generalizations and thin conceptualizations of the role of uneven power relations in deepening resource dependence and socio-economic inequities. The notion of patronage politics, for instance, is sometimes invoked within the register of the ‘rentier state’ theory to explain selective resource revenue allocation and the consolidation of political regimes. Yet the socio-economic relations explaining a particular formation of patronage networks in a given setting tend not to be investigated, despite holding high relevance for understanding how corruption influences broad societal development. It is here, we argue, that political ecology provides a valuable analytical lens to explain the

interplay of uneven power relations with natural resource sectors, including through various forms of corrupt practices. As Robbins (2000: 424) argues, corruption is ‘a system of normalized rules, transformed from legal authority, patterned around existing inequalities, and cemented through cooperation and trust’. Building on theories positing corruption as an institution (Perry 1997), and his own in-depth case study of the influence of uneven power relations over resource use in forested areas of rural Southern India, Robbins (2000) concludes that corruption frequently is the rule of access to resources, not an exception. Such an institutional perspective enables analyses to focus on the ‘rules in use’ (Ostrom 1990), rather than seeing practices as aberrations from prescribed models. It also allows a focus on social relations, and their transformations, particularly uneven power relations and their interplay with resource use and environmental change (Scoones 2009).

Power is a core concept in political ecology (Wolf 1972; Bryant 1998), given the latter’s preoccupation with relationships between the environment and society. It is also one of the most contested notions in the social sciences (Hall et al. 2011). Initially drawing from historical materialism (Mann 2009), conceptions of power across political ecology studies have especially drawn on Foucauldian understandings of power as relational and intimately linked to forms of knowledge. In this vein, Ribot and Peluso (2003) have cast power as the ‘ability to benefit from things’, serving to organize how people gain access to the things they need to sustain life. For Hall et al. (2011) power relations over resources are intimately linked to exclusionary practices articulated through the interplay of regulation, force, the market, and forms of legitimation. More generally, political ecology approaches also seek to decipher uneven power relations and the processes through which values flow from particular landscapes, through local and transnational institutions and actors, towards distant sites of accumulation and more prosperous nations (Robbins 2012). Returning to the notion of corruption in natural resource sectors, the language of power relations remains seldom explicitly used in contemporary corruption literature (but see for example Brockington 2008). The benefit of applying political ecology lies notably in the nuanced understandings and explicit vocabulary of power that it offers for the study of corruption. By allowing researchers to specify the who and how of natural resource governance ‘in use’ across multiple scales and boundaries, political ecology offers rich pathways for enhancing understandings of corruption that can challenge or complement existing knowledge found in the resource curse literature.

A COLLECTION OF CASE STUDIES ACROSS RESOURCE SECTORS

This volume consists of a collection of thirteen case studies providing nuanced and policy-relevant analyses of corruption within natural resource sectors. The first half of this collection looks at corruption processes related to extractive sectors, while the second half looks at other sectors, including fisheries, biofuel, forestry, and urban land. Most of the authors contribute insights and empirical evidence from field-research specifically focused on corruption, while others draw from broader resource governance research projects. All contributors were invited to reflect on the framing provided by the resource curse paradigm and to consider the contribution of a political ecology approach more sensitive to local contexts and the importance of uneven power relations on 'corrupt' forms of access and control over resource sectors.

These case studies start with a focus on extractive sectors, and the idea that oil wealth tends to undermine democratic transition – one of the central tenets of the resource curse paradigm. Inge Amundsen takes a closer look at the political process that unfolded during the 2015 Presidential election in Nigeria (Chapter 1 this volume). Viewed by many as the quintessential resource cursed country, experiencing high levels of oil sector corruption, embezzlement and capital flight, Nigeria nonetheless underwent a democratic transition with its March 2015 elections. The explanation for this puzzle partly lies, Amundsen argues, in the recent fall in oil prices and related government revenues, which limited patronage spending before the elections. Applying a political ecology lens to the case, however, also points towards deeper explanations: the costs and benefits of Nigerian oil extraction have been very unevenly distributed, allowing the formation of new, and the destruction of old, political alliances.

The resource curse literature also frequently mentions Norway as a rare case of successful governance among oil exporters. Reflecting on this, Birthe Eriksen and Tina Søreide ask whether the sector also exports its 'zero-tolerance to corruption' attitude in its overseas ventures (Chapter 2 this volume). Using data from three major prosecuted cases involving bribery of foreign public officials, two of them in the petroleum sector, Eriksen and Søreide argue that international pressure and conventions, as well as a proactive approach among domestic law enforcement, is forcing Norwegian firms to adapt to a new anti-corruption regime. While firms continue to meet extortionate demands for illegal payments, bribery has become far riskier and managers know they can face personal liability.

Still, ongoing evaluation of Norway's anti-corruption commitments should expand to include an assessment of its foreign policy objectives.

Resource discoveries often result in expectations of rapid growth, but also major concerns for increasing corruption. The resource curse literature puts a strong emphasis on the need to build capable and robust institutions in anticipation of resource windfalls; an emphasis that received much policy attention in the cases of Africa's 'new oil producers' such as Chad and Ghana. In the context of Tanzania's recent offshore gas field discoveries, Odd-Helge Fjeldstad and Jesper Johnsen demonstrate that uncoordinated public policy and a lack of regulation on lobbyism are important challenges for petroleum governance (Chapter 3 this volume). The Tanzanian government failed to reach a unified, coordinated policy position and bureaucratic competition was rife. Citizens in general felt bypassed in the process of developing three new petroleum laws, while local businesses and the local chapter of the Extractive Industries Transparency Initiative (EITI) came out ahead in the 'lobby game'. Interestingly, MNCs did not actively lobby at the legislative level but exerted influence via their technical expertise within the government administration. Existing literature on the resource curse has so far not examined how policy coordination and lobbyism matter for petroleum governance. The authors argue that existing models for analysing the behaviour of interest groups need modifications to explain how lobbyism works in a country like Tanzania.

Transparency and public accountability are core concepts in anti-corruption policies. In their study of the Extractive Industries Transparency Initiative (EITI), Päivi Lujala and Levon Epremian challenge the assumption that increasing transparency and informing the public about natural resource revenues will lead to more equitable revenue management (Chapter 4 this volume). A key reason behind this is the way concepts of 'the public' and 'the citizen' are understood in anti-corruption discourse. As Lujala and Epremian show, policy and practice initiatives that cast people's action, or lack of it, mainly as behavioural problems should more carefully consider how people manoeuvre within structures that may prevent collective action for change, and what can be done about it, rather than relying on the hope that transparency and public information will in themselves bring about effective forms of accountability.

Much of the corruption related to resource sectors occurs at the level of revenue allocation. In a first chapter dealing with this aspect, Kendra E. Dupuy examines the case of community development funds drawing from resource revenues that are increasingly used to address issues of revenue distribution and local development in resource production

regions (Chapter 5 this volume). Comparing two West African mining revenue distribution policies, Ghana's Mineral Development Fund and Sierra Leone's Diamond Area Community Development Fund, Dupuy shows how local elite capture coupled with limited transparency and accountability, led to fund misuse and embezzlement. Though such funds are usually established with good intentions, their ability to uplift mining communities through improved incomes, social services and infrastructure tend to be undermined by local power dynamics. Dupuy suggests that institutional reforms need to recognize the vulnerability of community-based natural resource management programmes to capture by local elites, which requires such schemes to be informed in the first place by a nuanced analysis of local power relations within and around communities.

In a second chapter focusing on revenue allocation, Grizelda Mayo-Anda provides a detailed account of biased budgetary processes in the Philippines, explaining the misuse of provincial royalty funds from the Malampaya natural gas project in Palawan (Chapter 6 this volume). She explains how the combination of massive royalty funds and institutional context influenced biased funding choices by local government. A public inquiry into the Malampaya scandal demonstrated the vulnerabilities of existing governance arrangements to undue political and personal interests. Mayo-Anda concludes by reflecting on the importance of alternative and strategic mechanisms of natural resource revenue sharing that can prevent funds from falling prey to the self-interest of local politicians.

Mostly focused on extractive sectors, the resource curse literature has more rarely engaged with other resource sectors – in contrast with political ecology, which has given greater attention to corrupt processes within fisheries, forestry, biofuels, the wildlife trade, and land. In their sweeping and insightful review of corruption risks in fisheries, Ussif Rashid Sumaila, Jennifer Jacquet and Allison Witter point at the effects of corruption on marine environments, global food security, national economies and local livelihoods in coastal communities (Chapter 7 this volume). Undermining management goals and eroding local incentives for responsible resource stewardship, corrupt practices within this sector are difficult to address. A raft of measures for improving oversight and management control have been proposed, but gaps in their implementation and loopholes in even the best monitoring systems mean it is difficult to address all types of corruption threatening fish stocks. Solutions may lie in strengthening fisher participation in management to improve compliance and legitimacy at local levels, as well as the identification of beneficiaries of corrupt practices all along the commodity chain bringing fish to consumers.

Green economic policies are not immune to corrupt practices. While corruption can undermine the implementation of a ‘green agenda’, green policies can themselves also be instrumented for corrupt purposes. Reflecting on the small but growing literature on the ‘green resource curse’, and drawing from fieldwork on the illegal trade in forest products in Kenya and the broader East Africa region, Connor Joseph Cavanagh confirms that increased financing for green initiatives threatens to replicate problems in the extractive industries (Chapter 8 this volume). He also argues they hold potential to fuel clandestine forest destruction and further marginalize indigenous forest dwellers. The struggles of these communities suggest that the antidote to a green resource curse in Kenya does not simply rely on supporting improved governance and the rule of law – measures that can often be circumvented with relative ease – but depends too on locally rooted movements for environmental justice.

Strengthening formal control and oversight institutions is a common policy prescription for addressing corruption in natural resource sectors and escaping from the resource curse. Reflecting on two recent biofuel land deals in Ghana, Festus Boamah and Aled Williams problematize this approach and argue that contested notions of land entitlements provide leeway for powerful local actors to re-invent customs aimed at justifying the appropriation of valuable resources at the expense of weaker groups (Chapter 9 this volume). In Ghana, where rival institutions jostle for authority to control natural resources, generating desirable outcomes requires more than tightening existing controls or creating new regulations. Collaborative approaches are needed where the limits of powers and specific roles of different actors are clearly defined in new political settlements.

Community-based natural resource management approaches are frequently presented as a way to increase local representation in decision-making processes and reduce the risks of corruption. Revisiting a well-known ‘success story’ of community-based forest management in Tanzania, Joseph Perfect Mrema reflects on the effects of the capture of such projects by local elites (Chapter 10 this volume). Based on data collected in three Tanzanian villages between 2009 and 2015, Perfect Mrema observes that, despite being structurally designed to conserve dwindling resources, community-based conservation programmes ended up being captured by patronage and collusive networks. Contrasting with evaluations considering this project a success, these findings point at the importance of longitudinal evaluations sensitive to intra-community power relations.

Political transitions are often rife with corruption, and aid conditionality is occasionally deployed to stop corrupt logging practices amidst

electoral processes. In his powerful story of the resurgent trade in rosewood in northeastern Madagascar, Oliver Remy explains how a group of local timber traders leveraged illicit wealth to become elected members of Madagascar's Fourth Republic (Chapter 11 this volume). Their influence over national forest policies paved the way for continued rosewood exploitation despite the government repeatedly agreeing to a logging moratorium, notably in exchange for foreign aid.

Corruption often thrives in contexts of prohibition. Tanya Wyatt outlines the corrupt actors along the smuggling chain of the illegal wildlife trade, showing how various forms of corruption are employed to launder and hide wildlife whilst buying off and/or deceiving law enforcement agencies (Chapter 12 this volume). As a multi-stage crime straddling national boundaries and seeking to bypass domestic laws, regulations and enforcement actions, the illegal trade in wildlife is highly dependent on corruption for its success. Although research on this topic is still fairly limited, emerging case evidence suggests a combination of approaches is required, including initiatives that seek to reduce consumer demand in countries that are major importers of wildlife products, and improved policing at global transit hubs.

In the last chapter, Dieter Zinnbauer draws attention to the importance of land governance in urban settings and demonstrates the striking applicability of several major resource curse arguments to this sector (Chapter 13 this volume). Given the potential for bad urban governance to fuel kleptocratic practices, exacerbate inequalities, and further marginalize the livelihoods of billions of urban poor, more attention should be paid to cities as units of analysis, and to urban land in particular. As Zinnbauer insightfully notes, the challenges of urban land governance not only results from the sheer value of this very political resource, but also from the role played by urban land as an investment vehicle to launder the money made through illicit exploitation, corruption and tax evasion associated with other natural resource sectors.

NOTES

1. See, for example, Leite and Weidmann (1999), Mehlum et al. (2006), Robinson et al. (2006), Kolstad and Søreide (2009), Le Billon (2011, 2014).
2. According to the resource curse paradigm, countries highly dependent on revenues from exports of non-renewable natural resources tend to be characterized by poorer economic performance, lower levels of human development, and higher levels of inequality and poverty. See for example, Karl (1997), Humphreys et al. (2007), Ross (2012). Leite and Weidmann (1999: 3) first statistically demonstrated that capital intensive natural resources were a 'major determinant of corruption' (see also Busse and Gröning 2013), with corruption in turn having negative economic growth effects. Examining subnational effects

in China, Zhan (2015: 1) finds that 'resource dependence significantly increases the propensity for corruption by state employees'. Conditional findings include countries with high-quality democratic institutions (Bhattacharyya and Hodler 2010), and a reverse relation for agricultural and metal and ores exporters (Gani and Clemes 2015). Even for oil Ross (2012) cautions assertion of a systematic relationship as he finds a slightly, and statistically non-significant, improvement of corruption perception scores for oil-states compared to non oil-states during 1996–2006.

REFERENCES

- Arellano-Yanguas, J. 2011. 'Aggravating the resource curse: decentralisation, mining and conflict in Peru'. *Journal of Development Studies*, 47(4), 617–638.
- Arezki, R., Gylfason, T. and Sy, A.N.R. 2011. *Beyond the Curse: Policies to Harness the Power of Natural Resources*. International Monetary Fund. Washington, DC.
- Bardhan, P. 1997. 'Corruption and development: a review of issues'. *Journal of Economic Literature*, 35(3), 1320–1346.
- Bhattacharyya, S. and Hodler, R. 2010. 'Natural resources democracy and corruption'. *European Economic Review*, 54(4), 608–621.
- Brockington, D. 2008. 'Corruption, taxation and natural resource management in Tanzania'. *The Journal of Development Studies*, 44(1), 103–126.
- Brunnschweiler, C.N. and Bulte, E.H. 2008. 'The resource curse revisited and revised: a tail of paradoxes and red herrings'. *Journal of Environmental Economics and Management*, 55, 248–264.
- Bryant, R.L. 1998. 'Power, knowledge and political ecology in the third world: a review'. *Progress in Physical Geography*, 22(1), 79–94.
- Busse, M. and Gröning, S. 2013. 'The resource curse revisited: governance and natural resources'. *Public Choice*, 154(1–2), 1–20.
- Chinsinga, B. and Wren-Lewis, L. 2014. 'Grabbing land in Malawi'. In T. Søreide and A. Williams (eds) *Corruption, Grabbing and Development: Real World Challenges* (93–114). Edward Elgar Publishing. Cheltenham, UK and Northampton, MA, USA.
- Cust, J. and Viale, C. 2016. 'Is there evidence for a subnational resource curse?'. Policy Paper, April, Natural Resource Governance Institute.
- Di John, J. 2011. 'Is there really a resource curse? A critical survey of theory and evidence'. *Global Governance*, 17(2), 167–184.
- Elster, J. 1985. 'Rationality, morality and collective action'. *Ethics*, 96, 136–155.
- Gani, A. and Clemes, M.D. 2015. 'Natural resource exports and corruption'. *International Advances in Economic Research*, 21(2), 239–240.
- Hall, D., Hirsch, P. and Li, T.M. 2011. *Powers of Exclusion: Land Dilemmas in Southeast Asia*. University of Hawaii Press. Honolulu, HI.
- Humphreys, M., Sachs, J.D. and Stiglitz, J.E. (eds) 2007. *Escaping the Resource Curse*. Columbia University Press. New York.
- James, A. 2015. 'The resource curse: a statistical mirage?' *Journal of Development Economics*, 114, 55–63.
- Karl, T.L. 1997. *The Paradox of Plenty: Oil Booms and Petro-States*. University of California Press. Berkeley and Los Angeles, CA.

- Klitgaard, R. 1988. *Controlling Corruption*. University of California Press. Berkeley, CA.
- Kolstad, I. and Sørdeide, T. 2009. 'Corruption in natural resource management: implications for policy makers'. *Resources Policy*, 34, 214–226.
- Le Billon, P. 2011. 'Extractive sectors and illicit financial flows: what role for revenue governance initiatives?' U4 Issue Paper. Chr. Michelsen Institute. Bergen.
- Le Billon, P. 2014. 'Natural resources and corruption in post-war transitions: matters of trust'. *Third World Quarterly*, 35, 770–786.
- Leite, C.A. and Weidmann, J. 1999. 'Does mother nature corrupt? Natural resources, corruption, and economic growth'. *Natural Resources, Corruption, and Economic Growth (June 1999)*. IMF Working Paper (99/85).
- Libman, A. 2013. 'Natural resources and sub-national economic performance: does sub-national democracy matter?'. *Energy Economics*, 37, 82–99.
- Loayza, N., Mier y Teran, A. and Rigolini, J. 2013. 'Poverty, inequality, and the local natural resource curse'. World Bank Policy Research Working Paper (6366).
- Mann, G. 2009. 'Should political ecology be Marxist? A case for Gramsci's historical materialism'. *Geoforum*, 40(3), 335–344.
- Marquette, H. and Pfeiffer, C. 2015. *Corruption and Collective Action*. Developmental Leadership Program, University of Birmingham. Birmingham.
- McNeish, J. and Logan, O. 2012. *Flammable Societies: Studies on the Socio-Economics of Oil and Gas*. Pluto Press. London.
- Mehlum, H., Moene, K. and Torvik, R. 2006. 'Institutions and the resource curse'. *The Economic Journal*, 116, 1–20.
- Monteiro, J. and Ferraz, C. 2010. *Does oil make leaders unaccountable? Evidence from Brazil's offshore oil boom*. Unpublished, PUC-Rio.
- Mungiu-Pippidi, A. 2006. 'Corruption: diagnosis and treatment'. *Journal of Democracy*, 17(3), 86–99.
- Nelson, F. and Agrawal, A. 2008. 'Patronage or participation? Community-based natural resource management reform in sub-Saharan Africa'. *Development and Change*, 39(4), 557–585.
- Ostrom, E. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge University Press. Cambridge and New York.
- Perry, P.J. 1997. *Political Corruption and Political Geography*. Dartmouth Publishing Company. London.
- Persson, A., Rothstein, B. and Teorell, J. 2013. 'Why anti-corruption reforms fail: systemic corruption as a collective action problem'. *Governance*, 26(3), 449–471.
- Ribot, J.C. and Peluso, N. 2003. 'A theory of access'. *Rural Sociology*, 68(2), 153–181.
- Robbins, P. 2000. 'The rotten institution: corruption in natural resource management'. *Political Geography*, 19, 423–443.
- Robbins, P. 2012. *Political Ecology: A Critical Introduction*, 2nd edition. Wiley-Blackwell. Malden, MA and Chichester.
- Robinson, J.A., Torvik, R. and Verdier, T. 2006. 'Political foundations of the resource curse'. *Journal of Development Economics*, 79, 447–468.

- Rose-Ackerman, S. 1978. *Corruption: A Study in Political Economy*. Academic Press. New York.
- Ross, M. 2012. *The Oil Curse: How Petroleum Wealth Shapes the Development of Nations*. Princeton University Press. Princeton, NJ.
- Rothstein, B. 2011. 'Anti-corruption: the indirect "big-bang" approach'. *Review of International Political Economy*, 18(2), 228–250.
- Saad-Filho, A. and Weeks, J. 2013. 'Curses, diseases and other resource confusions'. *Third World Quarterly*, 34(1), 1–21.
- Scoones, I. 2009. 'Livelihoods perspectives and rural development'. *Journal of Peasant Studies*, 36(1), 171–196.
- Seabright, P. 1993. 'Managing local commons: theoretical issues in incentive design'. *Journal of Economic Perspectives*, 7(4), 113–134.
- Standing, A. 2015. 'Corruption and state corporate crime in fisheries'. U4 Issue Paper. Chr. Michelsen Institute. Bergen.
- van de Walle, N. 2001. *African Economies and the Politics of Permanent Crisis, 1979–1999*. Cambridge University Press. Cambridge and New York.
- Wolf, E. 1972. 'Ownership and political ecology'. *Anthropological Quarterly*, 45(3), 201–205.
- Zhan, J.V. 2015. 'Do natural resources breed corruption? Evidence from China'. *Environmental and Resource Economics*, 1–23.

PART I

Extractive industries

1. Nigeria: defying the resource curse

Inge Amundsen

Nigeria has recently challenged one of the stronger hypotheses of the ‘resource curse’ theory; that oil wealth tends to block democratic transitions. According to Andersen and Ross (2014: 993), many studies have found that authoritarian countries with more oil wealth (that is, oil-dependent countries) are less likely to transition to democracy. For instance, Ross (2012) argues strongly that oil hurts democracy, and Andersen and Aslaksen (2013: 90) find a positive relationship between oil and political survival in non-democracies.

Now, most of the literature on the resource curse has regarded Nigeria as a quintessential example of a resource cursed country (see for instance Collier and Hoeffler 2001; Sachs and Warner 2001; Auty 1993; Mähler 2010). However, Nigeria made a remarkable democratic transition with the March 2015 general elections.

There are several explanations of how Nigeria managed to make this move and defy the deep structural conditions of the resource curse, which should, theoretically, hinder any democratic transition. In this chapter, I will argue that the main explanation to this puzzle was a slow but assured increase in the quality of several government institutions of checks and balances. In addition, the opposition (now ruling) party bridged the north–south divide, certain personalities played a positive role at important junctures, and a new generation of Nigerians refused to play by the old rules.

THE RESOURCE CURSE

It is a paradox that some countries bestowed with rich natural resources tend to decline in terms of economic growth, and in terms of human and political development. Economists have for some time discussed this resource curse and searched for explanations to why some countries with rich endowments of resources seem to have unexpectedly little long-term

growth and diversification (see for instance Sachs and Warner 2001; Gylfason 2001; Humphreys et al. 2007).

One of the stronger economic explanations to the curse is that an increase in revenues from natural resources appreciates the exchange rate and makes other sectors less competitive. In addition, volatile commodity prices are disruptive. In particular, the negative price effect and a decline in investments ‘crowds out’ manufacturing and agriculture. This is the so-called ‘Dutch disease’ (Humphreys et al. 2007: 5–6).

Some of the literature also highlights political and institutional factors: according to Heller, the analysis must shift to political institutions to explain the resource curse (Heller 2006: 24), and according to Mehlum et al. (2006: 1119), the main difference between success and failure is in the quality of institutions. Basically, the rents generated from mineral extraction and other easily accessible resources can either be channelled into the productive economy, or be captured by the ruling elite for personal enrichment, status gain, and power purposes.

Political scientists working on the theory thus emphasize that an abundance of natural resources tend to produce not only weak economic growth but also more entrenched authoritarian rule. This is because natural resource windfalls not only lead to an overexpansion of the public sector, patronage, and clientelism (Robinson et al. 2005: 464); resource rents also provide power-holders with both the *incentives* and the *means* to hold on to power (Amundsen 2014: 172). Typically, oil wealth enables regimes to spend more on security and repression forces (Ross 2001: 335).

It seems, however, that a country is cursed *only* when it becomes dependent on, and enriched by, export of natural resources *before* accountable and democratic state institutions are established and consolidated. All the ‘resource blessed’ countries (like Norway, Australia, Canada, Brazil and Malaysia) were established democracies before the export boom set in. In fact, over the last three decades, *no* resource-rich and export-dependent authoritarian country has democratized. Perhaps Venezuela is an exemption (to the extent you believe ‘Chávism’ is democratic), but a closer look at the oil-rich Middle Eastern and African countries makes the point. The oil-rich Middle East has not democratized, Iran and Iraq remain unfree, and among the petroleum exporters in Africa south of the Sahara, we find Angola and Equatorial Guinea with presidents in office for over 35 years, and Gabon and the Democratic Republic of the Congo are countries run to a large extent as ‘family businesses’, with a few families in control of the government and the bulk of the economy.

Nigeria is, unexpectedly, the only example of an authoritarian and heavily oil-dependent regime that has made what seems to be a fully-fledged transition to democracy, *after* it became oil export-dependent.

NIGERIA'S CURSE

Nigeria is an archetypical 'oil nation', a mono-economy in which oil dwarfs every other economic sector. The sale of crude oil totalled 77 billion USD in 2014 and made up about 75 per cent of Nigeria's government revenues. Since the 1970s, oil has accounted for 90–95 per cent of all foreign exports and 70–85 per cent of all government revenues.

Nigeria is a resource cursed country according to most of the literature. Radon says, 'Nigeria has been bedevilled by the natural resource curse and has witnessed a significant decrease in living standards, unfathomable corruption, and societal strife' (in Humphreys et al. 2007: 94). Shaxson (2007: 18) argues that the 'crowding out' effect in Nigeria during the oil-boom years produced a 60 per cent decline in agricultural output and 'plunged tens of millions of people into poverty'.

The economic indicators of the resource curse in Nigeria are, first, the fact that the people of Nigeria remain as poor today as before oil (that is, before the early 1970s and a production of over 2 million barrels of crude oil a day). In 2014, almost 100 million Nigerians (60.9 per cent) were living on less than USD 1 a day (that is, in 'absolute poverty'). In 1980, the figures were only 17.1 million (and 30 per cent) (National Bureau of Statistics). In other words, the level of poverty has risen substantially in both absolute and relative terms.

A second indicator is the low level of economic diversification. In the wake of the oil boom of the 1970s, agriculture and manufacturing fell from 44.2 and 12.4 to 24.7 and 4.8 per cent of GDP, respectively (Usman 2014: 4). Although Nigeria has been among the ten fastest growing countries in the world in the 2000s, a recent report on economic transformation argues that Nigeria is among the least transformed countries in Africa. It scores zero on a combined index of diversification, export competitiveness, productivity, technology upgrading, and this poor showing 'reflects its extreme dependence on producing and exporting oil' (ACET 2014: 32–33).

However, there are a few signs that economic growth in Nigeria is moving beyond petroleum extraction. Both export earnings and government revenues from non-oil sectors have been slowly but steadily

increasing since around 2006, with Lagos as the biggest non-oil production area. The so-called middle class now constitutes roughly 30 per cent of the population in Lagos, and the proportion is increasing (Amundsen 2010: 7). Lagos (and to some extent Kaduna, Cross River and Bayelsa states) are also reform-oriented with a relatively better institutional and financial control of federal transfers and locally generated revenues (Amundsen 2010: 14).

The political indicators of the resource curse in Nigeria are the civil war and the many dictatorships the country has seen since independence. The Biafra secessionist war from 1967 to 1970 is often explained as a conflict over access to natural resources, and the military regimes from 1966 to 1979 (with a short civilian interlude from 1979 to 1983), and again from 1983 to 1999, are the basic political indicators. In addition, the transition to civilian rule in 1999 can be regarded as less than a full democratic transition as it was a hand-over from the military to a former military general, Olesegun Obasanjo, and the military-dominated PDP, and this party continued to rule until 2015 although with different presidents.

The current Boko Haram insurgency in the northeastern parts of the country has also been blamed on the resource curse, not least because of the extreme income inequalities between the north and the south. 'Boko Haram represents the resource curse's disastrous end game' (Goldfond 2015) and the 'situation is particularly dire in the far north. Frustration and alienation drive many to join "self-help" ethnic, religious, community or civic groups, some of which are hostile to the state. It is in this environment that the group called Boko Haram [...] emerged' (International Crisis Group 2014: 1).

At the same time, the oil revenues combined with systemic corruption, embezzlement, and capital flight has created huge benefits to the ruling elite. Private enrichment is glaring, with former president Abacha embezzling USD 2–5 billion during his reign (TI 2004: 1), and at least three out of the five Nigerians on Forbes' 2015 list of billionaires have their wealth from combining their political influence and connections with oil revenues.

The 'privatization' of some of the government oil revenues has taken many forms. One is the establishment of private oil companies that get government contracts and partnerships with foreign oil companies, with the help of government connections. Another is the banking sector, which has a long history of unsecured loans and embezzlement involving politically well-connected people, bailed out by the government (TI 2009: 201).

Yet another ‘big hole’ includes Nigeria’s fiscal federalism, where the 36 states are responsible for about half of all government spending (some estimates say up to 60 per cent) (Amundsen 2010: 21), and where the leakages are huge with rampant power abuse and embezzlement. The leakages also include corruption in the national procurement systems. According to the World Bank’s *Country Procurement Assessment Report* (CPAR) for 1999, 60 per cent of the money spent by the government was lost to underhand practices. Although the situation has improved through better legislation, the collusion between the (former) ruling party dignitaries, government and military officials, and politicians has enabled a massive ‘privatization’ of public funds. Corruption has been so pervasive in Nigeria that it has turned public service into a kind of criminal enterprise (HRW 2011: 1).

Nigeria’s government institutions have been notoriously weak. According to the *Worldwide Governance Indicators*, the level of government effectiveness, regulatory quality and rule of law is low. It is low even compared with the sub-Saharan African average, and it has remained so over many years (with perhaps a little improvement in the rule of law over the last few years) (World Bank Institute 2013).

The Nigerian National Petroleum Corporation (NNPC), for instance, is not transparent, and one of the ‘biggest and most chaotic’ of the world’s national oil companies, ‘and a mess: a conventional business analysis would effortlessly rank NNPC as one of the world’s top mismanaged firms’ (Soares de Oliveira 2007: 93). It is also ‘one of the most difficult agencies of [the] government to tackle because of vested interests of very powerful people in the country’ (Gboyega et al. 2011: 8).

NIGERIA DEFYING THE CURSE

Nigeria nevertheless made a democratic transition with the elections in April 2015 and a peaceful and constitutional transfer of power from President Jonathan and the *People’s Democratic Party* (PDP), the ruling party since 1999, to President Buhari and his newly formed opposition alliance, the *All Progressives Congress* (APC).

The fact that Nigeria has defied the deep structural conditions of the resource curse and managed a democratic transition in 2015 is, to some extent, explained by the recent fall in oil prices and the ensuing massive fall in government revenues and possibilities for patronage prior to the elections. However, various political ecology explanations offer a deeper understanding. The costs and benefits of resource extraction – and the following environmental damages – have been distributed very unequally,

creating and breaking up political alliances between favoured and disfavoured groups.

BRIDGING THE NORTH–SOUTH GAP

The on-shore oil production in the southeastern Niger-delta region has traditionally been a stronghold of the regime, together with Abuja (the federal capital) and some eastern parts of the country. However, the on-shore oil production in the Delta region has destroyed the livelihoods of the population of the area. It has led to forced displacements, created massive environmental damage, destroyed fishing waters and farmland, and caused health damage due to oil spills, gas flaring and contaminated water (see for instance Watts 2004; HRW 2005; Soares de Oliveira 2007: 243; Amundsen 2010: 12–13; Mähler 2010: 16).

Therefore, despite their ethnic and historic affiliations with President Jonathan, and despite government largesse in terms of co-opting and bailing out the many protest movements in the area, the Delta population turned out to vote for Jonathan in much fewer numbers than expected. Most observers believed Jonathan had complete control of the vote in the Delta region (Edozien 2015), but former militants and the MEND insurgency group openly supported Buhari and the APC (SaharaReporters 2015).

The northern part of Nigeria is the poorest part of the country, and it has suffered droughts, soil degradation, and conflicts over access to land. The northern population, counting for roughly a half, has also lagged behind in terms of income, education, security, and political voice, and it has been a breeding ground for opposition and protest. Not only is it the home area of the terrorist organization Boko Haram, the north voted massively for Buhari and the opposition alliance.

The natural resource-poor southwest, with the biggest city and economic capital Lagos, has avoided the attention of the government for good and for bad. With no natural resources to exploit, it has gone through a ‘normal’ path of development, and become the industrial and trade hub of the country, far more advanced, economically and politically, than other parts of the country.

In February 2013, the party that dominated Lagos for a long time joined forces with the party that dominated the northern parts of Nigeria, and formed the APC. Thus, with the southwest joining forces with the north in this alliance, the opposition (now ruling party) bridged the north–south division and unseated the incumbent, President Jonathan, and ended the 16 years of rule of the PDP.

BOLSTERING THE INSTITUTIONS

A political science rule-of-thumb says that democracy is consolidated when the opposition party (alliance) has won twice, and the government has consequently stepped down twice, peacefully and constitutionally. Democratic procedures can then be said to be fully respected, and democracy to be the ‘only game in town’.

Nigeria is almost there. Although elections established a civilian government in 1999, the first elected civilian president, Obasanjo, was a former military ruler, and the ensuing elections (all until the 2015 elections) were heavily rigged and continuously returned the ruling party to power. Thus, the elections of head of state and government were more of a party- and ruling elite internal affair.

The 2015 elections were the most expensive but also the most peaceful, the least rigged, and the most consequential in Nigeria’s history. For the first time since independence, political power was transferred peacefully from one political party to another, because of free and fair elections. This has (hopefully) established a new pattern, where change in government is possible through elections.

This happened much thanks to the Independent National Electoral Commission (INEC) and its Chairman, Attahiru Jega. The INEC has now established itself as an institution able to deliver credible elections that can sustain Nigeria’s nascent democracy. The importance of Jega’s integrity and professionalism is unquestioned, and innovative measures like the *INEC half hour*, a thirty-minute public enlightenment television programme, illustrates the institution’s outreach and credibility.

The development of a number of other institutions of checks and balances, insight and control are also significant, bearing witness to a slowly increasing constitutionalism and institutionalization of Nigerian politics.

One is the Economic and Financial Crimes Commission (EFCC), the main anti-corruption institution in Nigeria. The EFCC gained much influence and respect, especially under former commissioner Nuhu Ribadu, although the subsequent lack of substantial and visible success coupled with political wing-clipping under President Jonathan weakened the institution. Yet, knowledge (and condemnation) of corruption has intensified, and the EFCC has made important progress in recovering assets that are the proceeds of crime (HRW 2011).

Besides, Nigeria adopted a Freedom of Information Act in 2011, the press is ‘partly free’, it is a ‘compliant country’ of the Extractive Industries Transparency Initiative (EITI), and civil society has improved in terms of competence, activity, and outreach since 1999.

Although the Nigerian constitution seeks to divide power, modelled after the American constitution, the President (executive branch) is still constitutionally dominant, with a strong centralization of financial and political power in the office of the presidency. Informal practices like clientelism, patronage and political favouritism not only adds to this; the informal exercise of power by Nigeria's political oligarchy often exerts more control over daily life than do formal institutions.

The Parliament is weak, and the senior politicians of the Senate and House of Representatives are some of the biggest cats feeding on the system. It is not a change-oriented institution; it is a 'pork barrel' of spoils distribution, favouritism, and politically motivated financial and material inducements and advantages (Amundsen 2010: 18). The judiciary with the Supreme Court is also rather ineffective as a political counter-power, although it has gained some strength lately, according to the governance indicators cited above. This improvement has a lot to do with a more independent nomination process of Supreme Court judges, and a few cases in which the judiciary has asserted its independence.

Some of Nigeria's institutions of checks and balances have received donor support and funding, although Nigeria's vast oil wealth means that it is not dependent on donor funds, and donors have consequently much less influence than elsewhere in Africa. (For instance, USAID's budget for democracy and governance in Nigeria in 2014 was approximately USD 2.7 million, election support excluded, which is roughly what three Nigerian gubernatorial candidates could legally spend on their election campaigns.)

Yet, some of the foreign interventions have been strategic and symbolically significant. For instance, support for the Election Commission has helped it maintain its independence and withstand government pressures (the UK alone provided USD 5.2 million to support the 2015 elections, including INEC). The former EFCC leader received personal support by Norad (the Norwegian Agency for Development Cooperation) through its corruption hunters network, and some legal reforms have been pushed through with the help of EITI and the World Bank. A large number of civil society organizations have made decent contributions thanks to foreign support, with the Open Society Foundation as one prominent example.

CHANGING GENERATION AND OUTLOOK

One additional factor has to be mentioned: the generation shift. Nigeria has a young population after years of high population growth. There is a

youth bulge, with more than 13 million first-time voters in 2015. With sky-high youth unemployment and few young people seeing benefits from the oil-rich government's patronage spending, and with widespread political mobilization through social media, the Internet and pop culture, most of the young vote went to the opposition and contributed to the political shift (Nwosu 2015; NDI 2015; Johnson 2015).

THE ONLY GAME IN TOWN

Although Nigeria has yet to be a consolidated democracy with *two* elections leading to a change in government, there is now greater respect for democratic rules and institutions. Democracy seems to have gained a foothold as the 'only game in town'. In the words of one voter to a journalist (*The Economist* 2015): 'If things are not better with Buhari, we will get rid of him in four years' time.'

REFERENCES

- ACET. 2014. *2014 African Transformation Report: Growth with Depth*. African Center for Economic Transformation. Accra.
- Amundsen, I. 2010. *Good Governance in Nigeria: A Study in Political Economy and Donor Support*. Norad Discussion Report 17/2010. Norad. Oslo.
- Amundsen, I. 2014. 'Drowning in oil: Angola's institutions and the "resource curse"'. *Comparative Politics*, 46(1), 169–189.
- Andersen, J.J. and Aslaksen, S. 2013. 'Oil and political survival'. *Journal of Development Economics*, 100, 89–106.
- Andersen, J.J. and Ross, M.L. 2014. 'The big oil change. a closer look at the Haber–Menaldo analysis'. *Comparative Political Studies*, 47(7), 993–1021.
- Auty, R.M. 1993. *Sustaining Development in the Mineral Economies: The Resource Curse Thesis*. Routledge. London.
- Collier, P. and Hoeffler, A. 2001. *Greed and Grievance in Civil War*. The World Bank. Washington, DC.
- Edozien, F. 2015. 'Nigeria's Jonathan doesn't need good luck for votes in his Delta region stronghold'. *Quartz* blog-post 17 March: <http://qz.com/364283/nigerias-jonathan-doesnt-need-good-luck-for-votes-in-his-delta-region-stronghold/> (accessed 23 January 2016).
- Gboyega, A., Søreide, T., Minh Le, T. and Shukla, G.P. 2011. *Political Economy of the Petroleum Sector in Nigeria*. Policy Research Working Paper 5779. The World Bank. Washington, DC.
- Goldfond, J. 2015. 'Nigeria's resource curse: Boko Haram and the poverty of plenty'. *Open Democracy* website, 8 April 2015: www.opendemocracy.net/joshua-goldfond/nigeria%E2%80%99s-resource-curse-boko-haram-and-poverty-of-plenty (accessed 27 August 2015).

- Gylfason, T. 2001. 'Natural resources, education, and economic development'. *European Economic Review*, 45(4–6), 847–859.
- Heller, T.C. 2006. 'African transitions and the resource curse: an alternative perspective'. *Economic Affairs*, 26(December), 24–33.
- HRW. 2005. *Rivers and Blood: Guns, Oil and Power in Nigeria's Rivers State*. Briefing Paper, February 2005. Human Rights Watch (HRW). New York.
- HRW. 2011. *Corruption on Trial? The Record of Nigeria's Economic and Financial Crimes Commission*. Report, 25 August 2011. Human Rights Watch (HRW). New York.
- Humphreys, M., Sachs, J.D. and Stiglitz, J.E. 2007. *Escaping the Resource Curse*. Columbia University Press. New York.
- International Crisis Group. 2014. 'Curbing violence in Nigeria (II): the Boko Haram insurgency'. *ICG Africa Report*, No 216, 3 April. International Crisis Group (ICG). Brussels.
- Johnson, O. 2015. 'The role of social media in the 2015 presidential elections in Nigeria'. *Voices of Youth* web post: www.voicesofyouth.org/en/posts/the-role-of-social-media-in-the-2015-presidential-elections-in-nigeria (accessed 23 January 2016).
- Mähler, A. 2010. *Nigeria: A Prime Example of the Resource Curse? Revisiting the Oil-Violence Link in the Niger Delta*. GIGA WP 120/2010. German Institute of Global and Area Studies (GIGA). Hamburg.
- Mehlum, H., Moene, K. and Torvik, R. 2006. 'Cursed by resources or institutions?' *The World Economy*, 29(August), 1117–1131.
- National Bureau of Statistics, Republic of Nigeria. National statistics downloadable at the data portal: www.nigerianstat.gov.ng/ (accessed 26 August 2015). See also BBC World News 13 February 2012: www.bbc.com/news/world-africa-17015873 (accessed 9 August 2016).
- NDI. 2015. *Statement of the National Democratic Institute's International Observer Mission to Nigeria's March 28 Presidential and Legislative Elections*. Report. National Democratic Institute (NDI). Washington, DC: www.ndi.org/nigeria-election-observation-statement-march-2015 (accessed 23 January 2016).
- Nwosu, C. 2015. 'Nigeria's youth factor'. *Foreign Policy in Focus*, news: <http://fpif.org/nigerias-youth-factor/> (accessed 23 January 2016).
- Robinson, J.A., Torvik, R. and Verdier, T. 2005. 'Political foundations of the resource curse'. *Journal of Development Economics*, 79(February), 447–468.
- Ross, M.L. 2001. 'Does oil hinder democracy?' *World Politics*, 53, 325–361.
- Ross, M.L. 2012. *The Oil Curse: How Petroleum Wealth Shapes the Development of Nations*. Princeton University Press. Princeton, NJ.
- Sachs, J.D. and Warner, A.M. 2001. 'The curse of natural resources'. *European Economic Review*, 45(May), 827–838.
- SaharaReporters. 2015. *MEND Endorses Buhari for President, Says Voting Jonathan is Biggest Mistake Niger Deltans Ever Made*. New York, 6 January 2015: <http://saharareporters.com/2015/01/06/mend-endorses-buhari-president-says-voting-jonathan-biggest-mistake-niger-deltans-ever> (accessed 24 January 2016).
- Shaxson, N. 2007. *Poisoned Wells. The Dirty Politics of African Oil*. Palgrave Macmillan. New York.

- Soares de Oliveira, R. 2007. *Oil and Politics in the Gulf of Guinea*. Hurst and Company. London.
- The Economist*. 2015. 'Nigeria's election: hail to democracy'. *The Economist*, 4 April, print edition. London.
- TI. 2004. *Press Release: Global Corruption Report 2004*, 25 March. Transparency International (TI). Berlin.
- TI. 2009. *Global Corruption Report 2009*. Transparency International (TI). Berlin.
- Usman, Z. 2014. 'The political economy of economic diversification in Nigeria'. Paper presented to the 14th EADI General Conference: *Responsible Development in a Polycentric World*. University of Oxford. Bonn.
- Watts, M. 2004. 'Resource curse? Governmentality, oil and power in the Niger delta, Nigeria'. *Geopolitics*, 9(1), 50–80.
- World Bank. 1999. *Nigeria – Country Procurement Assessment Report (CPAR)*. The World Bank. Washington, DC.
- World Bank Institute. 2013. *Worldwide Governance Indicators*. Interactive dataset. World Bank Institute (WBI). Washington, DC: <http://info.worldbank.org/governance/wgi/index.aspx> (accessed 27 August 2015).

2. Zero-tolerance to corruption? Norway's role in petroleum-related corruption internationally

Birthe Eriksen and Tina Søreide¹

Norway is frequently presented as one of the few countries to have escaped 'the resource curse'.² Evidence for this claim is based on Norway's consensus in favour of fiscally conservative spending, competent regulatory institutions, a zero-tolerance policy towards corruption, and vast savings in a sovereign wealth fund (SWF) for future generations. Internationally, Norway is known for its aid-financed Oil for Development programme, its advanced technology exports and its emphasis on industry safety and labour rights.³ Has Norway effectively implemented its 'zero-tolerance' policy in its operations abroad as well? To illustrate this crucial issue more clearly, this chapter briefly reviews Norway's commitment to the international anti-bribery agenda, including the performance of petroleum companies, the role of the criminal justice system in enforcing the country's anti-bribery legislation, and the government's role as a political player, recipient of tax revenues and shareholder in the petroleum sector.

Norway is a small country with a big petroleum sector. It is the tenth largest exporter of oil and liquids and the third largest exporter of natural gas in the world. The petroleum sector is a main pillar of the Norwegian economy, securing state revenues, jobs, and a demand for advanced research with spillover effects to other sectors. The main mechanisms for securing state revenues from the sector's activities are company taxation, an additional special tax on oil companies,⁴ and substantial state ownership in the sector,⁵ including the 67 per cent state-owned Statoil ASA.⁶ The share of revenues from abroad is difficult to calculate because the aforementioned instruments for securing revenues are tied to company profits from global sales of services and investments.⁷ It is estimated, however, that about 40 per cent of the total turnover in the Norwegian-based supply industry derives from international markets.⁸

THE RISK OF CONTRIBUTING TO CORRUPTION

The petroleum industry is one of the sectors most vulnerable to corruption due to profits exceeding production costs, expectations of high tax revenues, high regulatory discretion and complex contracts that are difficult for outsiders to evaluate. This is the sector with the most foreign bribery cases detected worldwide (OECD 2014). Norwegian petroleum companies operate all over the world, including in countries known to be rife with corruption such as Brazil, Angola, China, Mexico, Vietnam, Nigeria, Russia, Malaysia and the Democratic Republic of the Congo (DRC). While there is no definitive assessment of corruption levels, the risk of corruption can be derived from a set of datasets including perceptions-based and experience-based corruption indicators,⁹ cross-country variation in the rule of law and criminal justice efficiency,¹⁰ protection of human rights and access to government information, and assessments of democracy and citizens' ability to replace bad leaders.¹¹ What these sources tell us is that the risk of becoming involved in corruption is real for Norwegian companies operating in the international petroleum sector. A high corruption risk normally implies a lower probability of detection while the obtainable benefits include market access, market power, and lower tax rates.

Petroleum-related corruption can take many forms, including more or less extortive demands for bribes by local business and political elites in exchange for operation licenses, amendments of contracts and production-profile plans, beneficial application of production regulations, beneficial assessment of the quality of oil and the volumes of oil exported, and permits to import production equipment.¹² When corruption affects regulatory decisions, the sector operates less efficiently, state revenues are below their potential, and worse, the sector becomes a rent-seeking arena that distorts government legitimacy and state-citizen relationships.¹³ While the extent of international trade correlates in general with the level of corruption controls, there is also a risk that foreign corporations doing business in a high-risk society might come to play a 'corruption-stabilizing' role, even if they operate in compliance with domestic laws.¹⁴ By providing tax revenues, silently accepting an opaque financial management of state revenues, ignoring development problems in the given society, and avoiding support for opponents and critical voices of the incumbent regime, foreign corporations can easily be seen as supporting a corrupt regime. If acting otherwise, however, corporations risk harming their business relations with the incumbent

regime. Besides, opponents seizing political power could threaten the business deals.¹⁵

How capable is the Norwegian government of ensuring that the Norwegian industry's involvement in petroleum activities alleviates, rather than exacerbates, corruption in other resource-rich countries?¹⁶

CRIMINAL LAW REGULATION OF BRIBERY ABROAD

As a member of the OECD, the United Nations and the European Council, Norway has contributed to, signed and implemented international anti-corruption conventions and subsequently updated its regulation of corruption pursuant to the Norwegian penal code. Broad legal amendments were adopted in 2003 when bribery abroad was criminalized, including trading in influence.¹⁷ Prior to the 2003 reform the relevant Norwegian law was fragmented and had no general provision regulating corruption.¹⁸

Since the 2003 reform, there have been several prosecutions and guilty convictions in foreign bribery cases, and various players in the Norwegian society keep demanding enforcement of these rules – including parliamentarians, journalists, compliance officers in large companies, anti-corruption experts in consultancies and law firms, as well as business organizations and civil society. Likewise, the financial crime unit under the prosecutor appears committed to enforcing the rules.¹⁹ In its evaluation of Norway's implementation of the anti-bribery legislation, the OECD commends Norway for its visible and significant enforcement efforts, which have shown steady improvement since earlier reports. According to the OECD (2011: 40), the performance is the result of prosecutor competence at the Norwegian economic crime unit and its proactive approach to such cases.

Since 2003 when the OECD anti-bribery amendments incorporated into Norwegian law entered into force, Norway has – as of December 2015 – investigated and prosecuted several major cases involving bribery of foreign public officials in international business transactions.²⁰ Three cases stand out as particularly telling for the evolution of Norwegian law enforcement in foreign bribery cases with respect to the petroleum sector. First, *the Libya case* related to the former Saga Petroleum company, where no public prosecution took place; second, *the Horton case* in which the US SEC²¹ under US extraterritorial anti-bribery legislation²² and under Norwegian law²³ imposed severe fines on Statoil; and third, the guilty verdict in the lower court in the still pending *Yara case*. A brief comment on each of these three cases follows.

After an initial investigation, the Libya case was never subject to any public prosecution, hence it remained on a level of mere suspicion. The alleged incident was disclosed during the merger between state-owned Statoil and the petroleum division of privately owned Hydro ASA (a division recently acquired by Hydro, formerly the oil company Saga Petroleum), later to become Statoil ASA. It was alleged that the merging affiliate paid USD 6.6 million in bribes to foreign officials in Libya during 1999–2001. An internal investigation of the facts resulted in the company's exonerating itself; after all, the issue had been inherited from pre-merger times. What was remarkable in this case was the government's passiveness to the alleged corruption; the government took no serious steps to investigate what appeared to be a clear case of corruption.

Foreign bribery was first addressed by the Norwegian criminal justice system only after the US SEC pursued a case involving Statoil – the Horton case in which the company had paid a bribe to foreign officials in Iran during 2002 and 2003. The case surfaced subsequent to whistleblower reports that led to headlines in the Norwegian press. The Norwegian economic crime unit did a sweep of the company's Oslo headquarters where they found evidence of the alleged corrupt activity. Consequently, the economic crime unit imposed a USD 2.2 million fine on Statoil for illegal trading in influence.²⁴

While Statoil's Iran adventures started in the late 1990s, the Norwegian prosecutor could not pursue suspected bribery that took place prior to the 2003 legal reform. The acts, however, could be investigated under US extraterritorial law, and where Norwegian investigators had to remain passive, the Americans started considering the facts. For Statoil, the emerging risk of US sanctions, including exclusion from the US stock exchange, elicited readiness to collaborate with the US investigators. With the help of the Norwegian economic crime unit, Statoil presented evidence of corruption from pre- and post-legal reform eras. In fact, this case was the first US FCPA²⁵ enforcement action against a foreign company under extraterritorial jurisdiction based on American depository receipts (ADRs)²⁶ traded on the New York Stock Exchange. In a settlement with the SEC, Statoil agreed to pay a total of USD 21 million to settle criminal and administrative charges for violating the FCPA's anti-bribery and accounting provisions. In addition, pursuant to a deferred prosecution agreement (DPA),²⁷ Statoil also accepted a USD 10.5 million criminal penalty. In addition, as part of the DPA, Statoil approved the appointment of an independent compliance consultant tasked to review and report on Statoil's FCPA compliance (Tarun 2010: 290). The latter was yet another new experience in Norway's petroleum sector.

In retrospect, it is clear that this American extraterritorial intervention into what used to be considered a matter of domestic jurisdiction was a wake-up call for the Norwegian export-oriented industry as well as the Norwegian government. Until now, Norway, as the owner of state-owned companies, could remain passive, and 'safely' ignore the possibility that these firms illegally secured profitable contracts abroad. The new law enforcement reality prompted the government to acknowledge the seriousness of certain corporate behaviour in foreign markets while the risk of facing prosecution by other jurisdictions forced companies to rethink their strategies.

As the Horton case brought to life the new anti-bribery provisions in the Norwegian penal code, it contributed importantly to shape Norwegian case law, which over the years has verged upon similar legislation in the United States. The US anti-corruption regime is still more offensive, however, and therefore under tougher domestic pressure from the country's business organizations that claim it harms US business opportunities abroad.²⁸

The most recent case in Norway's evolution as a law enforcer in foreign bribery cases is the case of Yara International ASA (a producer of fertilizers). In addition to bribery in non-petroleum sectors in India and Russia, the company allegedly paid a bribe to the son of the oil minister of Libya when negotiating an agreement with the Libyan National Oil Company on fertilizer production. Accused of this corruption, the company accepted the facts along with a penalty notice imposing a fine of USD 32.5 million – in the most serious corruption case ever brought before a Norwegian court.²⁹ On top of this reaction against the corporation, and upon extensive investigation with mutual legal assistance from 13 countries, four former top managers, including a former CEO, were prosecuted and held personally liable for the bribery (Section 276a ref. 276 b (gross corruption) of the Norwegian Penal Code³⁰) in the lower court (Oslo District Court).³¹ For the first time in Norwegian criminal law, the verdict concluded strict personal liability on the part of top management for being complicit by having consented, approved and/or assisted in gross corruption. If the higher courts affirm the verdict now under appeal, this will distinctly intensify the requirements made on top management under Norwegian criminal law; a move in the direction of the recently strengthened US tradition of a stricter vicarious liability.³²

ENFORCEMENT OF FOREIGN BRIBERY LAWS: EXPLANATORY FACTORS

A country's enforcement of foreign bribery laws depend on a range of factors, including prosecutor competence, independence and political support. In Norway the prosecutor operates independently of the political level and there has been no (known) political reaction against investigations or enforcement of foreign bribery laws, including criminal law reactions impelled by the United States' extraterritorial enforcement of its own anti-corruption legislation (the FCPA³³). A problem for the Norwegian prosecutor, however, is that it must perform under serious budgetary constraints, and the budget has been tightened over the last few years. In the absence of financial resources, suspected foreign bribery cases are not acted upon, while ongoing investigations, including those into state-owned firms, have been cut in scope, a situation amply reported by the Norwegian media.³⁴ The current government made cuts in the economic crime unit's already tight budget, despite the obvious burden of prosecuting resource-demanding international cases (including the still pending Yara case), and despite the fact that verdicts and settlements have resulted in payments of large fines to the government. While the economic crime unit itself seems committed to the task of enforcing foreign bribery regulations, its lack of funding makes it difficult to believe that its activities are a political priority.

Internationally, self-reporting on the part of the company involved in the crime initiated one-third of the foreign bribery cases that have been subject to a criminal law reaction (OECD 2014). Norwegian authorities, however, have given companies few incentives to self-report bribery. In contrast to the United States, the United Kingdom, Germany and the Netherlands, Norwegian prosecutors have fewer opportunities to encourage firms to report their incidents of corruption through predictable opportunities for a compliance-based defense (Søreide 2015). There are no guidelines for settlements, and for firms, the time and cost of having the case processed are highly uncertain, trade-offs between corporate fines and individual liability (imprisonment) are not clear, and the sanction rebate upon confession differs from case to case.³⁵ The mere risk of self-incrimination for those who might consider approaching the criminal justice system with a confession might deter whistleblowers from speaking out about corruption: The more severe the consequences for the firm, the higher the risk of management retaliation against whistleblowers (Bjørkelo 2014). Failure to recognize the whistleblower legislation is reported regularly in both the private and public sector (Eriksen 2016).

The protection of whistleblowers is essential for bringing cases to the surface. The Council of Europe's Civil Law Convention on Corruption³⁶ provides for protection against retaliation to those who report corruption and underscores the importance of such protection for the sake of preventing and disclosing corruption (Art. 9). In Norway, amendments in the Working Environment Act³⁷ made to protect whistleblowers entered into force on 1 January 2007, yet as mentioned, potential whistleblowers may not feel confident that they have the necessary protection for speaking out.³⁸ Improvements may come with developments in the European Union. On 25 November 2015, the European Parliament called on the Commission to propose by June 2016 an EU legislative framework for the effective protection of whistleblowers and the like, specifically when they disclose information in cases related to economic crime. The EU Parliament also called on the Commission to introduce the tools for ensuring such protection, including remuneration for whistleblowing.³⁹

Enforcement of laws against bribery also depends on access to information and the level of transparency in the sector internationally. Norway contributes in this respect as it complies with the financial transparency standard provided by the EITI (the Extractive Industries Transparency Initiative). It is currently in the process of approving and requesting firms to apply country-by-country reporting, another transparency standard with particular relevance to extractive industries (OECD 2015b). The current regulatory regime and criminal law enforcement have altered mindsets regarding bribery abroad.

DEVELOPMENT SUPPORT FOR ANTI-CORRUPTION

Given solid democratic traditions, the Norwegian government is actively engaged in pro-development causes. Norway scores well on most, if not all, governance indicators, including human rights, control of corruption, health and gender equality, and this is very much the result of the government's commitment to development for the benefit of society as a whole. The country's emphasis on integrity and government institutions finds expression in its efforts to promote development internationally, including via financial development assistance.

International efforts against corruption take place from multiple platforms. Generally, the Norwegian government is a reliable supporter of integrity initiatives, even if anti-corruption is not among its top priorities in multilateral organizations such as the World Bank or the United Nations – where it also advocates forcefully for climate initiatives, gender concerns and conflict resolution. The Norwegian aid agency,

Norad, not only operates with no tolerance of corruption in its funding operations, it also pushes the international anti-corruption agenda, for example in respect of criminal law enforcement, support for auditing initiatives, and financial transparency.⁴⁰

For the sake of reducing petroleum-related corruption abroad, specifically, Norway has operated an aid-supported Oil for Development competence-building programme since 2005. This is a competence-sharing programme, which includes anti-corruption elements and strategies for promoting accountability and transparency in financial administration of the sector, in addition to industry governance learning modules.⁴¹ Of course, aid to petroleum-rich economies cannot be expected to prevent the risk of corruption associated with petroleum governance.⁴² Accordingly, those managing this Norwegian initiative maintain that petroleum-sector competence will have limited value for development unless the country that receives this form of support is willing to fortify its constitutional checks and balances. They see little point in establishing an Oil for Development collaboration when such willingness is lacking, and therefore, the programme's outreach depends crucially on a government's demand for the training offered.⁴³ Symptomatically, the most corrupt leaders will ignore such initiatives, and therefore, the programme will have little if any impact in the most corruption-ridden oil producing countries.

One area where the Norwegian government has contributed importantly, relates to financial transparency. When it comes to the country's own actions in the financial sector, Norway is no radical reformer for transparency. While formally, it approved the recommendations of the Financial Action Task Force, a 2014 country assessment of implementation found severe failures in enforcing these regulations.⁴⁴ However, for several years Norway has been a steady supporter of non-governmental organizations established specifically for the sake of promoting access to information about illegal capital flight, hidden funds and beneficial owners of business operations and entities. With the financial support from Norway, these organizations have exercised pressure for more financial transparency, for example vis-à-vis the OECD.

In sum, Norway's international contribution as a development partner is substantial, though it is unclear what effect it might have on corruption in other petroleum-rich countries. As a role model of governance integrity it influences primarily governments eager to secure development outcomes. The Oil for Development programme makes a difference in countries where there is already broad consensus around protecting funds from corruption. Financial transparency is highly needed to control corruption, yet there are still many remaining hideouts for corrupt funds

despite Norwegian support to this agenda. Internationally, governments – including the Norwegian government – need to consider what other forms of pressure they can exercise to promote accountable leadership.

STATE OWNERSHIP IN THE PETROLEUM SECTOR

In Norway there is substantial state ownership in several sectors, including the petroleum sector. This ownership is the result of a long tradition of political commitment to securing industrial development for the benefit of society at large. The government regulates the country's petroleum industry accountably by maximizing state revenues and minimizing the risk of negative consequences with regard to society and the environment.⁴⁵ Norway is often commended for its management of the revenues from the sector, including for ethical considerations associated with the management of its huge petroleum fund.⁴⁶ However, even if many investment subjects have been associated with credible allegations of corruption over the past decade, the fund managers hesitated until 2016 to (formally) exclude its first investment object because of the risk of corruption.⁴⁷ Even if the investors are steered by instructions from the Norwegian political level, it took them a long time to take clear steps in the direction of condemning corruption.

The government, which has the ultimate responsibility for the management of all state-owned assets in the private sector, explicitly calls for law compliance, social responsibility and zero-tolerance to corruption.⁴⁸ However, what it actually does to wield its political clout for the sake of an international petroleum sector free from corruption is not so clear. Diplomatic dialogue on such concerns may take place and go unreported to the public. What *are* being reported are the Norwegian government's attempts to promote Norwegian industry throughout the world, including with the help of the royal family, and in countries very challenged by corruption at the highest level of state. The government will not let political corruption stand in the way of successful business collaboration, it seems. In Angola, for example, Statoil operates in collaboration with a company with unknown owners, a fact that is not considered a problem since the firm simply takes precautions *as if* the partner is owned by the country's president himself.⁴⁹

The Norwegian government has expressed that it expects the business community to operate responsibly and well in compliance with the law.⁵⁰ For its own choices and actions, however, it has developed no holistic public foreign policy anti-corruption strategy. Thus, there are currently

few guiding principles when commercial aims are in conflict with development aid objectives and the country's role as a peacemaker.⁵¹

While the Norwegian government has a strong track record in controlling corruption at home, it appears less proactive in enforcing its strong anti-corruption policy abroad despite the presence of state-owned enterprises in high-risk areas. What explains this impression? The difficulty of addressing corruption in a foreign country excuses some of the inaction. In the case of Norway, however, there is no doubt that so far, the government has profited from letting time pass while apparently being unable to commit to addressing the problem. Voices in government smoothly counter critical questions regarding the role of state-owned companies in corruption-prone markets by explaining why a government should not intervene in business-related matters.⁵² The companies – including state-owned Statoil – must act on the instructions from members of their board of directors, while of course ensuring compliance with the law. Consequently, while the Norwegian society becomes richer, the responsibility for addressing corruption abroad appears to fall between two stools.

Norway ranks very high on indicators showing trust in society. Citizens have a very high trust in their government and they are strongly inclined to trust each other. Could it be that this high confidence in government institutions at home has made Norwegian institutions and citizens less inclined than others to recognize the risks of corruption in foreign government institutions? Being a highly export-oriented country with a private sector operating in the most exposed sectors in the most exposed counties of the world, it is difficult to blame a lack of experience. What is more likely, is that citizens and politicians have high confidence in the Norwegian state-owned enterprises, and may take it for granted that these enterprises will promote 'Norwegian values' and serve as a positive influence in foreign markets, irrespective of corruption-related challenges.

The recent cases of corruption related to state-owned enterprises, such as the above-mentioned Yara case, but also cases in other sectors such as Telenor's (telecom) ownership in Vimpelcom, diminishes some of the naivety that seems to have prevailed. These cases force the government to enter into principled debates on state ownership and the risk of contributing to corruption abroad, and the Minister of Trade and Industry has started to sort out whether the boards of state-owned enterprises do what they can to secure adequate compliance with the government's zero-tolerance to corruption policy regulations.

However, while the Ministry of Trade and Industry seems more aware of the possibility that Norway secures state revenues by contributing to

corruption abroad, there is still no holistic political approach to addressing the difficulty. At the time of writing, the Ministry of Finance (which oversees the revenues), the Ministry of Justice (which oversees law enforcement) and the Ministry of Foreign Affairs (which oversees Norway's relations to other governments) all appear unrelated to the question of whether the risk of foreign bribery and corruption stabilizing operations abroad should have any consequences for their strategies.

CONCLUSION

Corruption bedevils many petroleum-rich economies. Instead of experiencing development, citizens become hostage to greedy leaders and victims of civil wars. In this context, foreign players who profit from petroleum should be evaluated – not on how they compare in terms of what other players do, or how far they operate in compliance with relevant laws, but rather on what they do to alleviate the problems by virtue of their position and potential impact.⁵³ Norway is a small country, but big in oil. It is also big when it comes to supporting development, peace talks and human rights ambitions. This chapter has addressed Norway's contribution towards reducing petroleum-related corruption internationally by briefly reviewing the country's performance on the enforcement of foreign bribery laws, its emphasis on anti-corruption when acting as a development partner, and how it exercises its responsibilities as a major investor in the sector. Encouraged by international pressure, international conventions and law enforcement, Norwegian firms are forced to adapt to a new anti-corruption regime. While firms will continue to meet extortionate demands for illegal payments, and the benefits associated with corruption will continue to tempt some firms, bribery has undoubtedly become far riskier, and managers know that they might face personal liability if involved in the crime.

When it comes to governments more generally, we still lack effective tools to hold them accountable to the international conventions they have approved and implemented. Conventions against corruption might be of the sort that governments are happy to sign and forget, while they harvest popular support for an apparently steadfast commitment to anti-corruption.⁵⁴ In the petroleum sector, governments face few reactions internationally if they condone 'corruption-fueling' or 'corruption-stabilizing' activities in foreign countries, regardless of how much wealth they generate for the state through 'their' business presence. While Norway is a generous donor of development aid, the eagerness to ensure development appears to be a less convincing motivation when it comes to

countries where Norwegian petroleum firms do business and the governments' strategies and efforts to address political corruption in these contexts (either directly or via international organizations) are either absent or kept confidential. Instead of waiting and relying on international initiatives, the Norwegian government could take a more proactive role. It could require a stricter corporate governance with respect to anti-corruption in its state-owned enterprises, seek to avoid profiting from corruption-fueling operations and government collaborations, allocate funding for investigation and law enforcement, exploit possible anti-corruption influences associated with the petroleum fund, and help to keep corruption on the agenda as a priority to be forcefully addressed by multilateral organizations.

Internationally, we are getting used to practices of evaluating and ranking governments and firms on their anti-corruption commitment. Upon this case review of Norway, we think it is time to expand such assessments to include how governments perform their foreign policy anti-corruption strategy.

NOTES

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2. For discussion and review of risks, see Auty (2002), Mehlum et al. (2006), Humphreys et al. (2007), Shaxson (2007), Barma et al. (2012) and Le Billon (2013), among others.
3. Scanteam (2013) evaluates Norway's Oil for Development programme. Over the last few years, the programme has been strengthened on governance-related risks. For details, see Norad's 2014 report on activities: <https://www.norad.no/en/toolspublications/publications/2015/oil-for-development-annual-report-2014//> (accessed 10 December 2015). Regarding safety standards, see Høivik et al. (2009).
4. The tax rates are stipulated by the Petroleum Taxation Act (Act of 13 June 1975 No. 35). In 2014, Norway's tax revenues from petroleum activities were nearly USD 1385.5 billion.
5. The Norwegian state owns holdings in a number of oil and gas fields, pipelines and onshore facilities. This state ownership is organized under SDFI (the State's Direct Financial Interest) and managed by Petoro, a state-owned limited company, <https://www.petoro.no/home>.
6. Hereafter referred to as Statoil. In 2014, the shareholder dividend paid to the Norwegian state amounted to around USD 185 billion.
7. Norway removed its tax on Norwegian-controlled petroleum production in other countries in 2013.
8. For details, see the government's website Norwegian Petroleum: www.norskpetroleum.no/en (details on the Norwegian economy were retrieved in September 2015).
9. The World Bank Governance Indicators, Transparency International's Corruption Perceptions Index, and the World Bank's Enterprise Survey, see these organizations' websites for details.
10. See the World Justice Project among others.
11. See Political Rights Index from Freedom House and the Polity Score provided by the Center for Systemic Peace among others.

12. Le Billon (2014) and Al-Kasim et al. (2008).
13. See OECD (2015a) for a review and comparison of consequences across sectors, including extractives.
14. For relevant discussion and data analysis, see Asiedu and Lien (2011).
15. Søreide (2016 chapter 6).
16. For this chapter, we apply a precise definition of ‘resource-rich’. As pointed out by Crivelli and Gupta (2014), a country’s resource dependence and resource-related challenges should be seen in light of its overall tax system and ability to secure tax revenues from other sources. However, countries with an average natural resource revenue or exports that over the last five years exceed one-fifth of the countries’ total fiscal revenue and exports can safely be included in the category ‘resource-rich’.
17. The European Criminal Law Convention on Corruption was implemented in the Norwegian penal code by law of 4 July 2003 no. 79. Amendments were made in the penalty code of 22 May 1902 no. 10, Sections 276a–c and transferred to the new penal code of 20 May 2005 no. 28 Sections 387–389 (Into 1. October 2015 by law of 19 June 2015 no. 65). See Søreide (2015) for details and discussion about Norwegian criminal law regulation of corruption as a corporate crime.
18. Ot.prp. nr. 78 (2002–2003) ‘Om lov om endringer i straffeloven mv. (straffebud mot korrupsjon)’, section 3.1.
19. Ivory (2014) describes international corruption conventions as ‘suppression conventions’ as they are normally implemented upon international pressure, and have not emerged as the result of domestic law evolution. In many countries, the enforcement of these laws is not a political priority. For a review of enforcement problems, see Søreide (2016, chapter 3). Details and country reviews are made available on the OECD website.
20. See OECD (2011: 8–9).
21. The US Securities and Exchange Commission.
22. See *United States v. Statoil ASA*, No. 06-CR-00960 (S.D.N.Y. 2006).
23. See Phase 3 report on the OECD anti-bribery convention in Norway, pp. 8–9 about ‘the Oil Company case’ mentioning the company’s fine under Norwegian law amounted to USD 3 million.
24. See the Norwegian economic crime unit ‘Økokrim’ case no. 514/03.
25. The US Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C. § 78dd-1, et seq.).
26. ADR is a stock that is traded in the US but represents a specified number of shares in a foreign corporation. ADRs are bought and sold on American markets like regular stocks and are issued/sponsored in the US by a bank or brokerage.
27. A DPA is a voluntary alternative to adjudication in which a prosecutor agrees to grant amnesty in exchange for the defendant’s agreement to satisfy certain requirements.
28. For discussion, see Rose-Ackerman and Hunt (2011). In Norway, the main business organization, the Confederation of Norwegian Enterprise, has played an important role in promoting anti-corruption attitudes and compliance systems in Norwegian industry.
29. The amount includes a fine of USD 29.7 million and confiscation of USD 2.7 million.
30. See The General Civil Penal Code, act of 22 May 1902 no. 10. This law was replaced by a new penal code that entered into force on the 1 January 2015. See act of 20 May 2005 no. 28, section 387 ref. 388.
31. See TOSLO-2014-22670 (Yara International ASA).
32. US Deputy Attorney General: ‘Individual Accountability for Corporate Wrongdoing: Six key steps to strengthen the pursuit of Individual Corporate Wrongdoing’, 9 September 2015.
33. The US Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C. § 78dd-1, et seq.).
34. See, for example, the Norwegian newspaper *Klassekampen* on 14 October 2015: ‘Økokrim i økonomisk krise’ (transl. The prosecutor’s economic crime unit in a financial crisis).
35. In Norway, the US practice of offering leniency in exchange for details about crime meets resistance from legal scholars. However, under Norwegian competition law, the competition authority can offer leniency for corporations who report their involvement in cartel collaboration.

36. The Council of Europe's Civil Law Convention on Corruption of 4 November 1999.
37. Act of 17 June 2005 No. 62 relating to working environment, working hours and employment protection, etc. as subsequently amended, last by Act of 14 December 2012 No. 80, Sections 2-4, 2-5 and 3-6.
38. In addition to the strict regime of the Foreign Corrupt Practices Act (see note 19), the obligation to report compliance according to the Sarbanes Oxley Act of 2002 (Pub.L. 107-204, 116 Stat. 745) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173) and its measures to secure financial stability, including the obligation to report transferred funds.
39. The resolution proposes an independent European body responsible for collecting information from whistleblowers and carrying out investigations, as well as a pan-European whistleblower common fund, to ensure that whistleblowers receive adequate financial support. See European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect (2015/2066(INI)), note 144 and 145.
40. See Norad's website for information, and especially, its financial support for the 'Corruption Hunters Network' www.norad.no/en/front/thematic-areas/democracy-and-good-governance/corruption-hunters/ (accessed 10 December 2015). See also the U4 Anti-Corruption Resource Center, www.u4.no, an initiative for competent anti-corruption impact in aid-financed projects and collaboration, located in Norway and established with the support of Norway's Ministry of Foreign Affairs in collaboration with other major donor countries.
41. See Norad: www.norad.no/en/front/thematic-areas/oil-for-development/where-we-are (accessed 10 December 2015).
42. See Kolstad, Wiig and Williams (2009).
43. Interview with Ida Aronsen, a Senior Adviser in Norad, on 22 January 2016.
44. See its website: <http://www.fatf-gafi.org/>.
45. Al-Kasim (2006) describes the Norwegian model for accountable petroleum regulation.
46. Government pension fund global, see: www.nbim.no/en/the-fund/.
47. See the press release by the Central Bank of Norway on 7 January 2016: www.nbim.no/en/transparency/news-list/2015/decision-on-exclusion-of-company-from-the-government-pension-fund-global/ (accessed 15 January 2015). Firms may have been excluded for corruption-related reasons before, but in such cases, the withdrawal has not been publicly explained as relating to concerns about corruption.
48. www.regjeringen.no/en/topics/foreign-affairs/business-cooperation-abroad/innsikt/csr/id2076260/ (accessed 15 January 2015).
49. Explained by a Statoil representative at an anti-corruption conference Oslo, June 2015.
50. See St.melding no.10 (2008-2009): 'Næringslivets samfunnsansvar i en global økonomi' ('Corporate social responsibility in a global economy').
51. The OECD (2015a: 80) discusses the value of a foreign policy anti-corruption strategy.
52. Norwegian newspaper *Aftenposten* 19 May 2010: 'Refses staten for dårlig eierstyring' (transl. 'Criticizing the government for poor corporate governance').
53. Rose-Ackerman and Carrington (2013) present and debate what foreign players can do. See Søreide et al. (2016) on the difficulty for foreign players of solving other countries' corruption problems.
54. See Søreide (2016 chapters 3 and 6), Tullock (2005) and Moene and Søreide (2015).

REFERENCES

- Al-Kasim, F. 2006. *Managing Petroleum Resources: The 'Norwegian Model' in a Broad Perspective* (Vol. 30). Oxford Institute for Energy Studies. Oxford.
- Al-Kasim, F., T. Søreide and A. Williams 2008. *Grand Corruption in the Regulation of Oil*. U4 Issue, 2008 (2). Chr. Michelsen Institute. Bergen.

- Asiedu, E. and D. Lien 2011. 'Democracy, foreign direct investment and natural resources'. *Journal of International Economics*, 84(1), 99–111.
- Auty, R. 2002. *Sustaining Development in Mineral Economies: The Resource Curse Thesis*. Routledge. London and New York.
- Barma, N.H., K. Kaiser, T.M. Le and L. Viñuela 2012. *Rent to Riches? The Political Economy of Natural Resource-led Development*. The World Bank. Washington, DC.
- Bjørkelo, B. 2014. 'Sammenhengen mellom organisasjonskultur og risiko for ulovlig gjengjeldelse mot arbeidstaker som varsler om korrupsjon'. In B. Eriksen (ed.) *Å bekjempe et samfunnsønde: om korrupsjon, varsling, granskning og organisasjonskultur*. (Transl. *Fighting a Societal Evil: Corruption, Whistleblowing, Investigation and Organizational Culture*.): 132–155. Gyldendal. Oslo.
- Crivelli, E. and S. Gupta 2014. 'Resource blessing, revenue curse? Domestic revenue effort in resource-rich countries'. *European Journal of Political Economy*, 35, 88–101.
- Eriksen, B. 2016. *Arbeidstakers rett til å varsle om kritikkverdige forhold, jfr. arbeidsmiljøloven § 2–4(1). Med særlig vekt på varsling i aksjeselskap*. (Transl. *The Employees' Right to Blow the Whistle on Corporate Wrongdoing*.) Cappelen Damm. Oslo. Forthcoming.
- Høivik, D., B.E. Moen, K. Mearns and K. Haukelid 2009. 'An explorative study of health, safety and environment culture in a Norwegian petroleum company'. *Safety Science*, 47(7), 992–1001.
- Humphreys, M., J. Sachs and J.E. Stiglitz (eds) 2007. *Escaping the Resource Curse*. Columbia University Press. New York.
- Ivory, R. 2014. *Corruption, Asset Recovery, and the Protection of Property in Public International Law*. Cambridge University Press. Cambridge.
- Kolstad, I., A. Wiig and A. Williams 2009. 'Mission improbable: does petroleum-related aid address the resource curse?' *Energy Policy*, 37(3), 954–965.
- Le Billon, P. 2013. *Wars of Plunder: Conflicts, Profits and the Politics of Resources*. Oxford University Press. New York.
- Le Billon, P. 2014. 'Resource grabs'. In T. Søreide and A. Williams (eds) *Corruption, Grabbing and Development: Real World Challenges*: 46–57. Edward Elgar Publishing. Cheltenham, UK and Northampton, MA, USA.
- Mehlum, H., K. Moene and R. Torvik 2006. 'Institutions and the resource curse'. *Economic Journal*, 116, 1–20.
- Moene, K. and T. Søreide 2015. 'Good governance facades'. In S. Rose-Ackerman and P. Lagunes (eds) *Greed, Corruption, and the Modern State: Essays in Political Economy*: 46–70. Edward Elgar Publishing. Cheltenham, UK and Northampton, MA, USA.
- OECD. 2011. *Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Norway*. OECD Publishing. Paris.
- OECD. 2014. *OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials*. OECD Publishing. Paris.
- OECD. 2015a. *Consequences of Corruption at the Sector Level and Implications for Economic Growth and Development*. OECD Publishing. Paris.
- OECD. 2015b. *Action 13: Country-by-Country Reporting Implementation Package*. OECD Publishing. Paris.

- Rose-Ackerman, S. and P. Carrington (eds) 2013. *Anti-corruption Policy: Can International Actors Play a Constructive Role?* Carolina Academic Press. Durham, NC.
- Rose-Ackerman, S. and S. Hunt 2011. 'Transparency and business advantage: the impact of international anti-corruption policies on the United States national interest'. *NYU Annual Survey of American Law*, 67, 433.
- Scanteam 2013. *Facing the Resource Curse: Norway's Oil for Development Program*. Norad Evaluation Report no. 6/2012. Norad. Oslo.
- Shaxson, N. 2007. *Poisoned Wells: The Dirty Politics of African Oil*. Palgrave Macmillan. Basingstoke.
- Søreide, T. 2015. 'Negotiated settlements for corruption offences: position in Norway'. In A.O. Makinwa (ed.) *Negotiated Settlements for Corruption Offences: A European Perspective*: 125–146. Eleven Publishing. The Hague.
- Søreide, T. 2016. *Corruption and Criminal Justice. Bridging Economic and Legal Perspectives*. Edward Elgar Publishing. Cheltenham, UK and Northampton, MA, USA.
- Søreide, T., L. Gröning and R. Wandall 2016. 'An efficient anti-corruption sanctions regime? The case of the World Bank'. *The Chicago Journal of International Law* (forthcoming).
- Tarun, R.W. 2010. *The Foreign Corrupt Practices Act Handbook: A Practical Guide for Multinational General Counsel, Transactional Lawyers and White Collar Criminal Practitioners*. American Bar Association. Washington, DC.
- Tullock, G. 2005. *The Social Dilemma: of Autocracy, Revolution, Coup d'état, and War* (Vol. 8), edited by C.K. Rowley. C.K. Liberty Fund. Indianapolis.

3. Governance challenges in Tanzania's natural gas sector: unregulated lobbyism and uncoordinated policy¹

Odd-Helge Fjeldstad and Jesper Johnsen

Huge reservoirs of natural gas have been discovered offshore the southern coast in Tanzania. The country might become a large producer of gas and a potential exporter of liquefied natural gas (LNG) during the next decades. Experiences from other countries suggest that it is challenging to turn natural resource wealth into improved wellbeing for the majority of citizens. On average, resource-abundant countries have experienced lower economic growth, lower levels of human development, increased inequality and strife in society over the last four decades than their resource-poor counterparts, a phenomenon that has been labelled the 'resource curse' or the 'paradox of plenty' (Karl 1997; Robinson et al. 2005; Ross 2015; Sachs and Warner 2001).

Tanzania has not yet started to extract any gas from these recently discovered offshore natural gas reservoirs.² Petroleum sector institutions are in their formative stages. Intra-governmental coordination is problematic and policy objectives are at times conflicting. A largely unregulated booming new sector provides incentives for rent-seeking, lobbyism and potentially outright theft, which matter for public accountability and the peaceful co-existence between groups in society (Barber 1997; Collier 2007; Le Billon 2013; Williams 2010). Public expectations are high, and existing and new divisions and grievances within the country are growing (Cappelen et al. 2016; IMF 2014; Moshi 2013; Twawesa 2015).

Research consistently shows that the likelihood of experiencing a resource curse is correlated with the quality of a country's institutions (Acemoglu and Johnson 2005; Mehlum et al. 2006; Humphreys et al. 2007). However, there is no clear understanding of what institutions, policies or regulations have the potential to effectively manage natural resources and under what conditions (Ross 2015). This chapter analyses the role of governance institutions that set the rules of the political game.

This includes the capacity of the government to effectively formulate and implement sound policies (Kaufmann et al. 1999: 1). These rules structure incentives in human exchange whether they are political, social or economic. In this perspective, it is important to understand how the power and behaviour of various interest groups affect the rules of the game by shaping the policies and governance of natural gas extraction. In turn, such governance is likely to influence power relations in Tanzania (Kolstad and Søreide 2009; Robbins 2000, 2012).

Studies of petroleum governance commonly focus on contractual issues such as the negotiation of exploration licenses and production-sharing agreements (Bridge and Le Billon 2013; Manley and Lassourd 2014). This chapter takes a different focus and examines policies that set the parameters for such contracts. We use the processes around the development of the new petroleum legislation in Tanzania in 2015 as our case, and analyse how the petroleum policy was coordinated and how interest groups sought to influence outcomes by lobbying.

The analysis shows that uncoordinated policy and unregulated lobbyism are important governance challenges for Tanzania's emerging natural gas sector, and that these challenges are interlinked. The inability to reach a unified, coordinated policy position has led to bureaucratic competition, policy stalemate, and potentially regulatory capture by lobby groups. If reform initiatives are to succeed in addressing the negative effects of unregulated lobbyism and weak policy coordination, a better understanding is required of how the rules of the 'lobby game' are affected by political ecology factors, in particular how uneven power relations between various interest groups are shaping the policies of natural gas extraction. We argue that there is a need for advancement of the theoretical and conceptual framework of lobbyism to better reflect the developing country specifics.

DEFINING LOBBYISM IN A DEVELOPING COUNTRY CONTEXT

There is no universal definition of lobbyism. Godwin et al. (2013: 6) define lobbying in the US as 'campaign contributions and the various activities of paid lobbyists as well as by citizens and public officials to influence policy outcomes'. This definition may make sense in a well-regulated policy environment. In a developing country like Tanzania, a broader definition is required because interest groups are differently organized and the governance system more informal, as explained in more detail below. Thus, we use Baumgartner and Leech's (1998: 33)

definition (also deriving from the US context) that considers ‘any effort used to influence public policy’ as lobbying.

Many developing countries do not have legislation that directly addresses the appropriate behaviour and role of interest groups in the process of public policymaking. This is also the case for Tanzania, where there are no laws or regulations that establish the rules of the lobbyists’ game. The lack of legislation leaves the researcher without a formal, legal definition of what constitutes lobbying in a particular context. Academic definitions therefore must be chosen with care.

THE NEW PETROLEUM LAWS IN TANZANIA: THE BEHAVIOUR OF INTEREST GROUPS

The new *Petroleum Act* (URT 2015a), the *Oil and Gas Revenue Management Act* (URT 2015b), and the *Tanzania Extractive Industries (Transparency and Accountability) Act* (URT 2015c) were enacted by the Tanzanian parliament in July 2015 as a response to the discovery of large quantities of natural gas. These three laws were passed within a week under a ‘certificate of urgency’, allowing only cursory examination by the Parliamentary Committee for Energy and Minerals (Pedersen and Bofin 2015: 20).³ Opposition parties and civil society groups protested and called unsuccessfully for public hearings (Juma 2015).

The Tanzanian Civil Society Coalition expressed particular concern at the tabling of the Bills under the ‘certificate of urgency’ arguing that it hindered inclusive, open and informed participation of the citizens, industry stakeholders and legislators (Civil Society Coalition Tanzania 2015). According to Kinyondo and Villanger (2016), the government invited the international oil companies to provide comments and responses to the draft Petroleum Act with a four day deadline. A senior staff member of one of the petroleum companies stated:

‘It is not possible to go through such a comprehensive legal document within two to four days even if you have the best lawyers. We would have needed at least two months. It is a very important document that requires much more time for considerations, and this was not an adequate approach and timeline for such consultations’ (Kinyondo and Villanger 2016: 23).

In the years before the new petroleum acts were formulated and passed by the parliament, several policy documents and studies argued for the importance of consultations with key stakeholders. For instance, a study commissioned by the British High Commission in support of an initiative of the Tanzania Petroleum Development Corporation to formulate a local

content policy in the petroleum sector, recommended extensive consultations with stakeholders (Warner 2012: 11). This recommendation is mirrored in draft one of the *Local Content Policy of Tanzania for Oil and Gas Industry – 2014* which states that ‘a coordination mechanism will be established to allow for multi-stakeholder consultations involving key stakeholders’, including key ministries, local government authorities, the private sector, universities, civil society organizations, the media and development partners (URT 2014, Section 5.3.1, p. 34). In spite of these intentions, the Tanzanian government did not establish platforms for proper and transparent consultations (Kinyondo and Villanger 2016).

Two categories of interest groups have clearly put their mark on the new acts. First, the international Extractive Industry Transparency Initiative (EITI) gains a permanent legal basis for its operations in Tanzania in the Extractive Industries (Transparency and Accountability) Act (URT 2015c), which establishes a Tanzania Extractives (Transparency and Accountability) Committee. Second, the national business community will benefit from the strong local content requirements, as stated in part VIII of the Petroleum Act (URT 2015a).⁴ The Tanzania Private Sector Foundation (TPSF), an umbrella organization for business associations, ran an intense lobby campaign to promote local business interests. Chaired by Dr Reginald Mengi, a wealthy media mogul with business interests in many sectors and good political connections, TPSF is an influential player. Through his media concern IPPmedia, Dr Mengi also actively lobbied for local business participation in the oil and gas sector (for example, Kisanga 2013). The new legislation provides no preferential treatment to national actors in the upstream business, but its ‘far-reaching local content requirements will offer plenty of opportunities for local business interests’ (Pedersen and Bofin 2015: 22).

Civil society groups not connected to EITI or the business community felt sidelined (Juma 2015). They have been mostly reactive, responding to government policy statements and actions, and did not make any significant contribution to policy formulation in the petroleum sector (Pedersen and Bofin 2015: 24–25). This reactive approach is reflected in a call from the *Tanganyika Law Society* in November 2015 for the government to amend the oil and gas legislations passed by parliament ‘to enhance transparency and accountability in the extractive industries’ (James and Mtulya 2015).

Foreign donors and multilateral organizations provided technical support to the drafting of the new acts. The support from the Norwegian Oil for Development programme is mentioned explicitly in the draft petroleum policy. Several bilateral and multilateral agencies are mentioned in the Tanzania Gas Sector Scoping Mission, which put the importance of

better communication strategies on the agenda (Pedersen and Bofin 2015). The German development agency GIZ has offered support to a communication strategy for the gas sector. The International Monetary Fund (IMF) has announced support to a framework for the management of natural resources (Kamndaya 2014). Following Baumgartner and Leech's definition (1998: 33), these donor activities can be considered a form of lobbyism. This type of lobbyism is arguably benign, as influence on policy is sought to benefit the Tanzanian society at large, not just a small minority. Still, donors are actors in the lobby game that seek to change policy.

Surprisingly, multi-national petroleum companies did not seem to have made any substantial efforts to lobby the legislative process, and the new acts do not appear to cater for them. One interpretation is that these companies know that open lobbyism at the policy level could backfire by airing conflicting interests with the domestic business sector about local content policies. The massive, negative attention international mining companies have faced for being exploitative from politicians, local business people, civil society actors and the media in recent years, has tarnished their image both in Tanzania and abroad (Lange and Kinyondo 2016). The experiences from the mining sector might have affected the petroleum companies' choice of a low profile, non-conflictual approach.

Meetings with petroleum companies in Dar es Salaam in October and November 2015 confirmed that they did not want to be involved in political issues. Hence, their preferred strategy may have been to wait and influence the interpretation and implementation of the gas policy through the Tanzanian bureaucracy. The multinational companies possess technical expertise that the Tanzanian public administration cannot match. This contrasts the involvement of petroleum companies in lobbying in other cases. In a recent study, Fjeldstad, Rakner and Ngowi (2015) show how business associations, multinational companies and other lobby groups worked purposefully together to change the Value Added Tax (VAT) reform in Tanzania, and managed to reshape the new VAT act in accordance with their own interests. How to explain the different strategies of the petroleum companies in these cases? In the VAT-case, domestic and foreign companies had the same interests in changing the legislation, aiming to reintroduce exemptions, since tax incentives generally reduce business costs. In contrast, with respect to the Petroleum Act, domestic businesses and petroleum companies had divergent views on the local content policy. Thus, a rational strategy for the foreign companies would be to lobby on other arenas where their technical expertise could be applied.

THE POLICY ENVIRONMENT: WHAT WERE THE RULES OF THE LOBBY GAME?

The behaviour of interest groups described above does not conform to the stereotypical assumptions that lobbying is done mainly by large corporations. An analysis of Tanzania's policymaking system is useful to explain this behaviour. Interviews conducted by the authors during 2014 and 2015 with senior officials in the Tanzania Petroleum Development Corporation (TPDC), the Ministry of Energy and Minerals (MEM), and the Tanzania Revenue Authority (TRA), found that the officials were cautious of taking policy advice from international organizations, in particular from the World Bank.⁵ In their view, the World Bank's advice had not benefitted Tanzania in the past. The mining sector was referred to as an example where international organizations and multinational companies had 'pressured' the government into entering unfavourable agreements. This time, with the petroleum sector, they were determined not to repeat previous mistakes and to resist such lobbying efforts. However, they welcomed the technical expertise that the donors and multinational companies offered due to inadequate financial, human and technological resources in the country (URT 2014: 24). Yet, the government did not seem to critically reflect on the risk that technical expertise could be used to influence the interpretation and implementation of policies. Such 'stealth lobbying' was possibly considered less intrusive, or simply just happened under the radar of politicians.

The interviews also revealed a chaotic policy environment, where no agency or ministry was given the clear leading role, which meant that they all sought to influence the new legislation to bolster their own organizations. The Chief Secretary in the President's Office played a coordinating role, thus keeping the President close to the process, but did not steer the process in a systematic manner. Pedersen and Bofin (2015: 20) note the 'not very stable policy environment' in Tanzania, and describe a case where the TRA called for firms to express their interest in carrying out renegotiation of petroleum contracts, without coordinating this initiative with the MEM. The Ministry challenged the TRA, telling investors that there would be no renegotiations. This policy process fits nicely with the 'Garbage Can Theory' where 'various kinds of problems and solutions are dumped by participants as they are generated' (Cohen et al. 1972: 2) as well as Lindblom's (1959) incrementalism model that uses the concept of 'muddling through' to explain how public organizations work. It stands in contrast to rational choice-oriented conceptions of

decision-making processes that operate on the assumption of well-planned policy processes with clear strategic goals and often selflessly implementing bureaucrats.

Outsiders may find it difficult to navigate in such an environment, referred to as an organized anarchy by Cohen et al. (1972). However, insiders will benefit. As noted above, the Tanzania Private Sector Foundation ran an intense lobby campaign to promote local business interests. The local content requirements in the new legislation will offer plenty of opportunities for local business interests. The government's uncoordinated policy positions and Tanzania's absence of regulations on lobbying were useful for strong local business people to shape the governance and policies of natural gas extraction. Chabal and Daloz (1999) would consider the lack of regulations a deliberate, rational strategy. What may seem like corrupt and dysfunctional institutions from a Western perspective are well-functioning vehicles for patronage in the local context.

IMPLICATIONS FOR REGULATING LOBBYISM AND PROMOTING POLICY COORDINATION

The analysis of the three new laws shows that the lobby game works differently in Tanzania than in the United States. In Tanzania, interest groups such as foreign donors and international NGOs play a role comparable to business interests. Both sets of actors try to influence public policy via their specialist knowledge and resources offered. There are of course also differences between how donors, NGOs and private corporations exert influence. Businesses have been found to bribe government officials, unlike donors.

No current models manage to grasp the key features of lobbying and policy coordination in Tanzania. Several characteristics in this case call for theoretical advancements of the existing US and European theories to better accommodate the characteristics of the policy environment of Tanzania. First, existing literature focuses little on lobbying of regulatory agencies. In Tanzania, a new regulatory authority was established and the competition between authorities provided multiple entry points for interest groups. Research on lobbying in the US and Europe has largely ignored the lobbying of regulatory agencies and bureaucrats in making laws, despite the observation from Furlong and Kerwin (2005) that lobbying the rule-making process constitutes almost half of all lobby activity. Second, the low level of policy coordination in government and lack of formalized processes for decision-making also presents a different

arena for lobbyists than in jurisdictions with highly regulated processes for lobbyists. Third, it is also likely that the lower level of organization of interest groups matters for the way lobby activities are carried out. Both citizens and firms have fewer established associations through which they can voice their preferences in developing countries. Finally, existing frameworks to understand how interest groups seek to influence public policy need to add international donors and NGOs and distinguish between local and multinational businesses when they are applied in developing countries, in order to fully understand the influence of key actors.

What are the broader implications of this case for understanding lobbying and policy coordination in resource-rich, developing countries? In particular, there is a need for theoretical advancements to better accommodate the characteristics of the political economy of these countries to be useful for analytical purposes. There are two reasons for this. First, the literature on lobbying is dominated by studies from the US and the EU. Two comprehensive, stock-taking studies of US lobbying found that money in politics did not translate into repeated wins for the side with most financial resources. Heinz et al. (1993) interviewed 776 lobbyists and 301 public officials, covering 77 issues. Baumgartner et al. (2009) interviewed almost 300 lobbyists and studied 98 randomly chosen issues in depth. The scholars found that lobbyists were not systematically able to buy public policy outcomes or gain undue influence. The methodology of looking just at 'policy wins' makes for a stringent study, but also a narrow focus. Other reviews corroborate the finding that lobby activities are not consistently changing public policy in the US (Gordon and Hafer 2005; Richter et al. 2009; Baumgartner and Leech 1998).

In short, existing literature on lobbying suggests that the level of policy coordination matters for the behaviour of lobbyists (Baumgartner et al. 2009). This literature is mainly based on empirical material from the US and Europe. There are few rigorous case studies from resource-rich developing countries on policy coordination and lobbying, and none that directly assesses the links between them.

Second, scholars 'disagree over the extent to which organized interests help or harm the democratic process and the degree to which inequalities in the resources of competing interests bias the policy process' depending on their theoretical outlook (Godwin et al. 2013: 25). The existing US and European literature presents two main theories for explaining interest group behaviour: the *neopluralist model* and the *exchange model*. The two stock-taking studies referred to above take a neopluralist perspective, arguing that almost all interests can influence political decision-makers either directly through lobbying or indirectly via political parties and

elections. The tug-of-war between competing organized interest groups does not generally lead to a democratic problem or poor decisions, as politicians care about re-election (Baumgartner et al. 2009). Neopluralists would expect that Tanzania's citizens would be heard either directly through an association or indirectly through their elected representatives. The exchange model emphasizes that many interests are not heard because they are not organized or have few resources. Paradoxically, large groups of consumers miss out to small groups of organized interests. This is considered a democratic problem. The exchange model would worry that, for example, the citizens of Tanzania would not mobilize a unified voice to counter organized interest groups (such as national or international companies) when major new legislative initiatives were discussed.

A better understanding of how lobbyism is conducted in developing countries could also improve our understanding of corruption patterns. Harstad and Svensson (2011) argue that the lower probability of being sanctioned for a corrupt act in what they call poor countries, means that bribery is the preferred way to influence policy decisions, whereas lobbyism is more common in rich countries. Our case study suggests that lobbyism in developing countries may be much more important than previously assumed in both the academic- and policy-oriented literature. This does not mean that bribery does not happen, or that it cannot be a complementary strategy to lobbyism.⁶ However, it is too simplistic to expect that businesses will prefer to bribe than lobby if both strategies can achieve the same goal. Policy capture is of course just one type of non-monetary corruption that neither receives much scholarly attention nor is currently regulated well in most African countries. Other, often related, forms of non-monetary corruption are nepotism, conflicts of interest, and revolving doors.

CONCLUDING REMARKS

The resource curse is not just an economic phenomenon, but also one that is directly or indirectly affected by a country's politics and governance structures. Uncoordinated policy can lead to conflicting agendas and policy stalemates, in addition to mistrust and competition between regulatory authorities. Unregulated lobbyism may lead to regulatory capture by interest groups, biased policy decisions, or outright corruption. To understand how policy is influenced it is necessary to understand both the formal system and its environment. In many developing countries, formal systems for regulating interest groups are largely absent. Political

ecology analysis offers a framework to understand important contextual factors and informalities that set the rules of the lobby game.

We need more studies of policy coordination and lobbyism in developing countries to better understand how resource governance is affected, based on analytical frameworks that reflect the political environment and governance structures of developing countries and the way the lobby game plays out in such contexts. Our case study of three new laws on petroleum governance in Tanzania shows that assumptions based on existing theories and conceptualization about what lobbyism is and how it works need to be revised. Multinational companies did not launch a massive lobby campaign against the new Petroleum Act, though they are not comfortable with the legislative text on local content. In fact, the interest groups that benefitted most from the new laws seem to be local businesses and the local EITI chapter. Local businesses in particular gained from a lobby game where policy positions were uncoordinated, intergovernmental coordination was weak, and bureaucratic competition was high.

NOTES

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2. The first discoveries of natural gas in Tanzania were made in 1974 and 1982 at Songo Songo Island (Lindi Region) and Mnazi Bay (Mtwara Region), respectively (Fjeldstad et al. 2015). Commercial production from these 'onshore' reservoirs started in 2004, mainly for domestic electricity generation and some industrial use. Since 2010, large reservoirs of natural gas have been discovered offshore the southern coast of the country. International petroleum companies have already invested heavily in the exploration phase, but have not yet made a final decision about investment in extraction facilities.
3. Under a 'certificate of urgency' clause, the parliament is allowed to make rapid decisions on enactment with a minimum of consultations if the situation so dictates. It is generally considered a controversial way of enacting 'even according to Tanzanian standards' (Musiime 2015).
4. The new Petroleum Act, 2015 (URT 2015a), states that the National Oil Company (TPDC), shall have exclusive rights over natural gas midstream and downstream in the value chain, and 'promote local content including participation of Tanzanians in the natural gas value chain' (para 10). Further, the new Petroleum Upstream Regulatory Authority (PURA) shall 'promote local content including participation of Tanzanians in the natural gas value chain' (URT 2015a, para 13). EWURA (the Energy and Water Utilities Regulatory Authority), the regulator of midstream and downstream activities, shall 'promote the maximum participation of Tanzanians in every part of the petroleum value chain' (URT 2015a, para 31). Local content has also become a new element in EITI reporting. The Tanzania Extractive Industries (Transparency and Accountability) Act, 2015 (URT 2015c, para 15) states that an

- 'extractive industry company shall submit to the Committee annual reports containing information on local content and corporate social responsibility'.
5. Fieldwork was conducted during August and October 2014, from February to March 2015 and from October to November 2015.
 6. In a study of grand corruption in Tanzania, Hazel Gray (2015) documents extensive informal relations between the top leadership within the ruling party and prominent members of the country's small domestic private sector.

REFERENCES

- Acemoglu, D. and D. Johnson 2005. 'Unbundling institution'. *Journal of Political Economy* 113: 274–295.
- Barber, K. 1997. *Popular Reactions to the Petro-naira: Readings in African Popular Culture*. Indiana University Press. Bloomington and Indianapolis.
- Baumgartner, F.R. and B.L. Leech 1998. *Basic Interests: The Importance of Groups in Politics and in Political Science*. Princeton University Press. Princeton, NJ.
- Baumgartner, F.R., J.M. Berry, M. Hojnacki, D.C. Kimball and B.L. Leech 2009. *Lobbying and Policy Change: Who Wins, Who Loses, and Why*. University of Chicago Press. Chicago. IL.
- Bridge, G. and P. Le Billon 2013. *Oil*. Polity Press. Cambridge.
- Cappelen, A., O.H. Fjeldstad, D. Mmari, I.H. Sjursen and B. Tungodden 2016. 'Managing the resource curse: a survey experiment on expectations about gas revenues in Tanzania'. Paper presented at the *CSAE Conference on Economic Development in Africa*, 20–22 March. Oxford University.
- Chabal, P. and J. Daloz 1999. *Africa Works: The Political Instrumentalization of Disorder*. International African Institute in association with James Currey and Indiana University Press. Bloomington.
- Civil Society Coalition Tanzania 2015. 'Tanzania civil society groups decry lack of consultation in enacting key oil and gas revenue management laws'. Civil Society Coalition's full statement (9 July 2015). Dar es Salaam, <http://business-humanrights.org/en/tanzania-civil-society-groups-decry-lack-of-consultation-in-enacting-key-oil-gas-revenue-management-laws> (accessed 1 February 2016).
- Cohen, M.D., J.G. March and J.P. Olsen 1972. 'A garbage can model of organizational choice'. *Administrative Science Quarterly* 17(1): 1–25.
- Collier, P. 2007. *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*. Oxford University Press. New York.
- Fjeldstad, O.-H., L. Rakner and P. Ngowi 2015. 'Shaping the tax agenda: public engagement, lobbying and tax reform in Tanzania'. *CMI Brief* 2015: 5. Chr. Michelsen Institute/Mzumbe University. Bergen.
- Fjeldstad, O.-H., C. Jahari, M. Mmari and I.H. Sjursen 2015. 'Non-resource taxation in a resource rich setting: a broader tax base will enhance tax compliance in Tanzania'. *CMI Brief* 2015: 8. Chr. Michelsen Institute/REPOA. Bergen/Dar es Salaam.

- Furlong, S.R. and C.M. Kerwin 2005. 'Interest group participation in rule making: a decade of change'. *Journal of Public Administration Research and Theory* 15(3): 353–370.
- Godwin, K., S. Ainsworth and E.K. Godwin 2013. *Lobbying and Policymaking: The Public Pursuit of Private Interests*. CQ Press. Thousand Oaks, CA.
- Gordon, S.C. and C. Hafer 2005. 'Flexing muscle: corporate political expenditures as signals to the bureaucracy'. *American Political Science Review* 99(2): 245–261.
- Gray, H. 2015. 'The political economy of grand corruption in Tanzania'. *African Affairs* 114(456): 382–403.
- Harstad, B. and J. Svensson 2011. 'Bribes, lobbying, and development'. *American Political Science Review* 105(1): 46–63.
- Heinz, J.P., E.O. Laumann, R.L. Nelson and R.H. Salisbury 1993. *The Hollow Core: Private Interests in National Policy Making*. Harvard University Press. Cambridge, MA.
- Humphreys, M., J.D. Sachs and J.E. Stiglitz 2007. *Escaping the Resource Curse*. Columbia University Press. New York.
- International Monetary Fund (IMF) 2014. United Republic of Tanzania. Selected issues. *IMF Country Report* No. 14/121. Washington, DC.
- James, B. and A. Mtulya 2015. 'Review oil, gas laws: call'. *The Citizen* (30 November): www.thecitizen.co.tz/News/Review-oil-gas-laws-call/-/1840340/2978416/-/b8w1if/-/index.html (accessed 10 August 2016).
- Juma, M. 2015. 'Don't sign bad laws, NGOs tell JK'. *The Citizen* (11 July): www.thecitizen.co.tz/News/Don-t-sign-bad-laws-NGOs-tell-JK/-/1840340/2783600/-/wgfpw5/-/index.html (accessed 10 August 2016).
- Kamndaya, S. 2014. 'Be open in natural gas income advises IMF'. *The Citizen* (18 July): www.thecitizen.co.tz/Business/Be-open-in-natural-gas-income-advises-IMF/-/1840414/2388934/-/10tqqvrz/-/index.html (accessed 10 August 2016).
- Karl, T.I. 1997. *The Paradox of Plenty: Oil Booms and Petro States*. Berkeley University Press. Berkeley, CA.
- Kaufmann, D., A. Kray and P. Zoido-Lobaton 1999. *Governance Matters. World Bank Policy Research Working Paper* 2196. World Bank. Washington, DC.
- Kinyondo, A. and E. Villanger 2016. 'Local content requirements in the petroleum sector in Tanzania: a thorny road from inception to implementation'. *CMI Working Paper* 6: 2016 (August). Chr. Michelsen Institute. Bergen.
- Kisanga, D. 2013. 'Dr Mengi: Tanzanians can participate in gas economy'. *This Day* (25 October): www.ippmedia.com/frontend/index.php?l=60781 (accessed 10 August 2016).
- Kolstad, I. and T. Søreide 2009. 'Corruption in natural resource management: implications for policy makers'. *Resources Policy* 34(4): 214–226.
- Lange, S. and A. Kinyondo 2016. 'Local content in Tanzania's mining sector: implications for the petroleum sector'. Paper presented at *REPOA's 21st ARW*, Dar es Salaam, 7 April 2016.
- Le Billon, P. 2013. *Wars of Plunder: Conflicts, Profits and the Politics of Resources*. Oxford University Press. New York.

- Lindblom, C.E. 1959. 'The science of "muddling through"'. *Public Administration Review* 19(2): 79–88.
- Manley, D. and T. Lassourd 2014. *Tanzania and Statoil. What does the Leaked Agreement Mean for Citizens?* Natural Resource Governance Institute (NRGI). www.resourcegovernance.org/sites/default/files/Tanzania_Statoil_20140808.pdf (accessed 10 August 2016).
- Mehlum, H., K. Moene and R. Torvik 2006. 'Cursed by resources or institutions?' *The World Economy* 29(August): 1117–1131.
- Moshi, H.P.B. 2013. 'Opportunities and challenges for the extraction of gas in Tanzania: the imperative of adequate preparedness'. *ESRF Discussion Paper No. 48*. Economic and Social Research Foundation. Dar es Salaam. Tanzania.
- Musiime, C. 2015. 'Tanzania passes "urgent" petroleum laws, Civil Society concerned'. *Oil in Uganda* (13 July 2015). ActionAid Uganda. Kampala. www.oilinuganda.org/features/law/tanzania-passes-urgent-petroleum-laws-civil-society-concerned.html (accessed 10 August 2016).
- Pedersen, R.H. and P. Bofin 2015. 'The politics of gas contract negotiations in Tanzania: a review'. *DIIS Working Paper 2015: 03*. Danish Institute for International Studies. Copenhagen.
- Richter, B.K., K. Samphantharak and J.F. Timmons 2009. 'Lobbying and taxes'. *American Journal of Political Science* 53(4): 893–909.
- Robbins, P. 2000. 'The rotten institution: corruption in natural resource management'. *Political Geography* 19(4): 423–443.
- Robbins, P. 2012. *Political Ecology: A Critical Introduction*, 2nd edition. Wiley-Blackwell. New York.
- Robinson, J.A., R. Torvik and T. Verdier 2005. 'Political foundations of the resource curse'. *Journal of Development Economics* 79(February): 447–468.
- Ross, M. 2015. 'What have we learned about the resource curse?' *Annual Review of Political Science* 18: 239–259.
- Sachs, J.D. and A.M. Warner 2001. 'The curse of natural resources'. *European Economic Review* 45(May): 827–838.
- Twawesa 2015. 'Great expectations. Citizens' views about the gas sector'. *Twawesa Brief* No. 25 (September). Dar es Salaam.
- United Republic of Tanzania (URT) 2014. Local content policy of Tanzania for oil and gas industry. Draft one (April). Ministry of Energy and Minerals, Government of Tanzania. Dar es Salaam. <https://mem.go.tz/wp-content/uploads/2014/05/07.05.2014local-content-policy-of-tanzania-for-oil-gas-industry.pdf> (accessed 10 August 2016).
- United Republic of Tanzania (URT) 2015a. *The Petroleum Act, 2015*. Dar es Salaam. Government Printer.
- United Republic of Tanzania (URT) 2015b. *The Oil and Gas Revenues Management Act, 2015*. Dar es Salaam. Government Printer.
- United Republic of Tanzania (URT) 2015c. *The Tanzania Extractive Industries (Transparency and Accountability) Act, 2015*. Dar es Salaam. Government Printer.
- Warner, M. 2012. 'Local content policy in the petroleum sector in Tanzania: core issues, expenditure categories and road map'. Local Content Solutions Ltd. Henley-on-Thames, Oxfordshire.

Williams, A. 2010. 'Shining a light on the resource curse: an empirical analysis of the relationship between natural resources, transparency, and economic growth'. *World Development* 39: 490–505.

4. Transparency and natural resource revenue management: empowering the public with information?

Päivi Lujala and Levon Epremian

In the years following the turn of the century, the international community has been promoting transparency as a means to remedy misappropriation and mismanagement of natural resource revenues to combat corruption, increase accountability, and promote government effectiveness, development, and peace in many developing countries. In fact, in many cases, donors now require that recipient countries increase transparency in the management of natural resource revenues, for example, by joining the Extractive Industries Transparency Initiative (EITI).¹

A cornerstone of transparency initiatives like EITI is the dissemination of information about the management of valuable natural resources and their revenues to the general public. The idea is that by informing the public about natural resource revenues people are empowered to demand better, and perhaps more equitable, revenue management.² In other words, with improved access to information, the general public is expected to hold their governments, government officials, and, to some extent, extractive industry companies accountable for the generation and spending of revenues.

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 (Corrigan 2014; David-Barrett and Okamura 2016; Mejía Acosta 2013; Sovacool and Andrews 2015). This is despite the fact that EITI has been quite effective in attaining its core working objectives, that is, obtaining and publishing information on revenue flows between the extractive sector companies and host governments (Caspary 2012; Scanteam 2011).

The lack of tangible impacts from EITI and other transparency initiatives on their purported wider objectives raises difficult questions regarding whether the mechanisms thought to link increased information disclosure to the reduction of corruption and better resource revenue governance are valid. In this chapter, we question the underlying assumption that increased information about natural resource revenues to the general public will itself increase demand and action for more accountable natural resource revenue management. We raise three specific issues: (1) There may not be a need, or demand, among the public for the type of information provided by transparency initiatives (that is, more information about natural resource revenues); (2) More information may not translate into specific actions, or behavioral changes, expected by policy-makers and predicted by transparency models; and (3) The general public may not be the group best placed to hold government accountable and so to bring about specific changes to the way natural resource revenues are managed.

Transparency is promoted as a solution to mitigate uneven power between the state and citizens in the context of natural resource revenue management. The topic warrants attention from political ecologists given the need for looking more critically at both the theoretical and the empirical justification for focusing on transparency as an instrument for progressive change in natural resource revenue management. In this chapter, we identify some of the key assumptions behind mechanisms that are thought to link transparency to improved natural resource revenue governance and take some tentative steps toward proposing a more realistic understanding of how information can foster accountability.

THE HIGH-VALUE NATURAL RESOURCE REVENUES AND TRANSPARENCY NARRATIVE

Valuable natural resources can be an important source of revenues for a developing country. It is not uncommon that export revenues from oil and gas production, gold, diamond or other mining activities, or timber products form up to 80–90 percent of all export revenues, up to 50–80 percent of government revenues, and even 30–40 percent or more of a country's total Gross Domestic Product (GDP). These are huge proportions and render some countries highly dependent on the extractive sector. Therefore, it is of paramount importance how governments manage and spend revenues, especially because these resources – with the possible exception of timber – are non-renewable and thus lost forever.

Figure 4.1 shows the common causal change narrative describing the link between a transparency initiative and better natural resource revenue governance and improved societal conditions (Epreman et al. 2016; Gillies and Heuty 2011; DFID 2012). In this approach, the process of change is supposed to originate with the citizen in that information is made available to the people who can then use this information to form personal views, debate relevant issues, and when desirable, use it as a basis to voice their concerns about the management of natural resource revenues.³ Citizens are then better placed to use democratic mechanisms to demand change, thus holding the government and companies to account. This is expected to help curtail corruption and the wasteful use of resource revenues, which in turn will increase revenues available for spending, that is, on education, healthcare, and infrastructure.

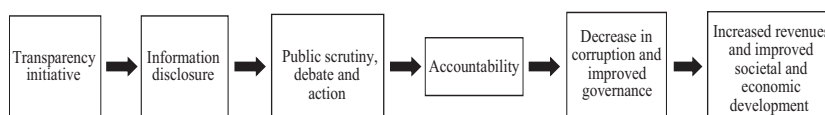


Figure 4.1 The transparency narrative in natural resource revenue management

In the model, each stage leads to the next, meaning that each stage acts as an instrument for bringing about the following stage. Thus, the arrows in the figure imply a number of assumptions that are necessary for this model to hold (Epreman et al. 2016). As EITI has been successful in publishing information about resource revenues (the first arrow in Figure 4.1), we focus in this chapter on the second and third arrows. First, we challenge the assumption that there necessarily exists an unmet public demand for more information and that it is realistic to expect that people will take active measures to request and access (more) information. Second, we challenge the assumption that satisfying this unmet demand would result in behavioral changes, with people taking steps to demand more accountable management of the revenues. Next, we consider these two assumptions in turn.

DO PEOPLE REQUEST OR NEED MORE INFORMATION?

Information may not reach people because the public demand for information on natural resource revenues is lacking (Ofori and Lujala 2015). Based on interviews that we have conducted in Ghana and

Liberia, people tend not to be active in trying to access information, even when pertaining to revenues accruing from extraction taking place in the area where they live. Although many express an interest in knowing more about these revenues, few are willing or able to take the necessary steps to access this type of information.

One way of interpreting this is to look at the contexts in which people live and transparency initiatives are implemented. In rural Liberia and Ghana, people are often unaware that they have the right, and may even be fearful, to demand information from government due to longstanding social and political hierarchies and marginalization of poor citizens. In other cases, people simply do not know how to go about obtaining such information or what the potential benefits might be. A related aspect is that in resource-rich countries, large amounts of revenues accrue directly to the government, often substituting for tax collection from the citizens. Therefore, people may feel less ownership over the revenues and less entitled to pose questions about state finances (Karl 2007; Ross 2001).

However, this will likely depend on scale, with the local context of resource extraction and distribution of benefits playing an important role in deciding people's interest. In fact, many local and regional communities and authorities request, and are receiving, a share of revenues originating from their areas as compensation for negative impacts of resource extraction and for the extraction of 'their' resources. Interest in information on revenues may therefore vary according to the prevalence of such issues in a given context, while the relevance of information will likely depend on how detailed the information on revenue generation and distribution is.

A lack of demand for information produced by a transparency initiative may also be the result of information being generally irrelevant to the problems and issues that concern people. For example, people may be more concerned about the pollution or land degradation that a mine causes than how much money it is generating for the government. It is also possible that peoples' political marginalization is so great and government accountability so remote, that they make a rational choice not to take steps to obtain and request more information. Consequently, for a number of different reasons, we might be 'left with an audience that may or may not find [...] information worthy of attention' (Fenster 2015: 160).

Furthermore, for information to be effective and useful for people, it needs to contribute to a better understanding of the issues in question. In the case of transparency initiatives it is often in practice assumed that information provided is both relevant and new to people, and that it will

make them more knowledgeable about natural resource revenue management. But are people in resource-rich developing countries particularly ignorant of the ‘state of affairs’? When it comes to corruption, patronage networks, and wasteful spending of revenues, people are often very aware of how things work and possibly even which actors stand to gain from exploiting their positions. People may not know the exact figures for revenues flowing from companies to government and how much is spent in programs and projects that they deem important. But, in most cases, we would argue, people do know how the society around them functions. That leads us to ask: if people did not act based on their previous knowledge of wrongdoing or incompetence, why would they behave differently after receiving additional information on these issues?

WILL MORE INFORMATION LEAD TO BEHAVIORAL CHANGES?

There are several different kinds of actions people could take in order to demand more accountable natural resource revenue management. These may include, but are not limited to, simple information requests, raising the issue in public meetings, contacting (local) government officials, signing petitions, and joining a demonstration or supporting campaigns by civil society organizations (CSOs). The empirical question related to this is: Can we observe a change in people’s behavior after they have received information on natural resource revenues?

One of the most effective methods for observing such changes in behavior comes from so-called field experiments, or impact studies. In these studies, the information is provided to randomly selected individuals or groups, such as villages. Then behavior is compared across those who received the information and those who did not. This is a very effective and reliable method, and is regarded as the gold standard among many economists and political scientists. However, to our knowledge such studies have not yet been conducted with regard to disclosing information on natural resource revenues. Interestingly, quite a few have been conducted in developing countries to study information’s effect on voting behavior, parental involvement in children’s education, and the quality of service delivery.

Evidence from studies that look at the impact of information on behavior, however, is mixed and inconclusive at best (Fox 2015; Kosack and Fung 2014; Lieberman et al. 2014). While one study on voting by slum residents in India showed that increased information on candidates’ performance and qualifications both increased the turnout and voting for

better qualified candidates (Banerjee et al. 2011), a similar study found no such effect in Uganda (Humphreys and Weinstein 2012). Interestingly, one study finds that provision of information on local-level corruption actually led to a decrease in voter turnout, as people lost trust in local elected officials (Chong et al. 2011). Similar mixed results are found regarding information's effect on parental involvement in improving school quality (Banerjee et al. 2010; Andrabi et al. 2014; Lieberman et al. 2014). Thus 'a great deal of empirical work has found little substantive impact from the provision of information to poor citizens' (Lieberman et al. 2014: 70).

There are likely multiple explanations for why increasing information may prove ineffective. First, people face all sorts of challenges, many of them related to basic needs to cater for housing, food, health, and education. These needs are likely to be deemed more acute than issues relating to governance of natural resource revenues. In Ghana, for example, people we talked to near the offshore oil production areas said that they would rather pursue activities that improve their lives, rather than 'chase' government officials for information (Ofori and Lujala 2015). This does not imply that (poor) people do not care about natural resource revenues and how they are managed, the importance of the issue may simply be less acute than the other challenges they face. Another aspect to this is that people may not consider it their responsibility – or their place – to invoke change, leaving responsibility to local representatives, civil society groups and other prominent (educated) figures (Lieberman et al. 2014).

Furthermore, people may not be in a position to act on the information provided to them since such actions may be too costly or otherwise beyond their means. This was evident from our work in Ghana, where people felt that they had very limited means by which to make their voices heard. The government representatives rarely came to the village, the radio station's 'phone-in' program was too expensive to call, and expressing their concerns in writing was largely beyond their means unless journalists took an interest in the community (Ofori and Lujala 2015).

One response to the issues mentioned above is to disseminate information along with advice on how to use the information, indicating potential effective actions people can take and even facilitating them (Fox 2015). However, this presents further challenges regarding what types of actions are relevant in a given context. For example, our research into EITI dissemination workshops in Liberia found that Liberian EITI officials advised the participants to contact their congressional and senatorial representatives and use elections to influence decision-makers.

However, these are not realistic mechanisms for most Liberians: In Liberia, lawmakers routinely use their influence to extract rents and maintain their patron–client status with their constituents. As such, lawmakers in Liberia are themselves party to the endemic and systematic corruption within the state, largely playing their role of ‘representative’ in name only. The Liberian EITI officials’ advice on taking action, therefore, did not recognize the longstanding power structures, lack of representation and marginalization of ordinary people. The result was that the advice that accompanied information was neither relevant nor feasible.

WHO ARE THE RELEVANT STAKEHOLDERS?

Transparency literature places high expectations on civil society to perform the role of accessing, interpreting, and disseminating information to the public (Fung et al. 2007). What is noteworthy in this line of thinking is that civil society is primarily viewed as an intermediary and less as an end user of the information, while raising awareness among the public at large becomes the end goal. One consequence of this approach is that those groups possessing the resources to collect, process and interpret information and to engage with government, are assigned the role of middleman, while responsibility for effecting change is placed at the foot of the poorly resourced citizen or an ill-defined ‘public’. One question relates to whether this is the most efficient way to use limited funding available for transparency initiatives. It may be preferable to target the already active civil society (that is, the CSOs and NGOs) as the end user rather than the public in general.

Who the targeted stakeholders are has great consequences for a large range of issues, regarding what information to disseminate, to whom, and how. Moreover, there is a clear link to the question of what the receiver is supposed to do with information and what kind of enabling support is required. If responsibility for holding governments and companies to account is placed on citizens, who may be poor and less highly educated, there needs to be a clear understanding of the actions that are feasible for them to take and whether these are likely to impact on the way natural resource revenues are governed. Such an understanding will only come about when the design and implementation of transparency initiatives is responsive to local political and institutional contexts. In some contexts, this will result in a recognition that viewing the citizen as the key agent for change in the short or medium term may be wholly unrealistic. As

such, the very existence of a public ready to perform its ‘public duty’, as prescribed by policymakers, may be a highly problematic assumption.

This is an empirical question in that we do not know to what degree people retain and understand information about natural resource revenues, what types of action they could think of engaging in, what kind of support they need, and whether people are at all in a position to do anything within the political, institutional and security context in which they live. We also need to know what information people want to have and whether the information provided is at all relevant. If people want a mine to close because they have lost their land and livelihoods and suffer from pollution and human rights abuses, what use is revenue data?

CONCLUDING REMARKS

A key issue underlying many of the problematic assumptions regarding transparency may be the way concepts of ‘the public’ and the role of ‘the citizen’ are understood in the broader governance, anti-corruption and transparency discourse. In transparency models and narratives, the ‘public’, rather than representing an adjective to describe a certain social and political sphere, is instead understood as a noun to denote a group of people. This group of people is assumed to see its relationship to the state as a contract that it is willing to enforce by using democratic leverage to hold government to account and uphold the principals of good governance. It is unlikely, however, that such a public can be found in any pure form outside the abstract models of political scientists and the discourse of policymakers (Fenster 2015; Fox 2015). It is therefore problematic for policymakers to assign to citizens beliefs, interests and incentives, and a specific relationship to the state based on some kind of moral responsibility or ‘public duty’ to mobilize and participate in what essentially needs to be a collective action for change.

Trying to understand people’s action or lack of action as simply to do with individual behavior ignores the fact that people tend to maneuver within the structures that exist in a given context, and which may be key to preventing collective action for change. Transparency narratives like the one we have discussed in this chapter (Figure 4.1) tend to lead policy and practice to ignore those structures and superimpose an ideal-type democracy onto any national context where an intervention is deemed possible. Moreover, an important point often forgotten is that in these contexts where such a ‘public’ – that is, active in fighting corruption and demanding improved governance by the state – had not previously

emerged, the reason is unlikely to have been the result of a lack of (specific) information on natural resource revenues.

That is not to say that people or groups that are trying to perform the role of public watchdogs would not in many cases find more access to information useful. Moreover, the purpose of this chapter has not been to argue against the importance of information, or to undermine efforts for people to have greater access to information concerning the management of natural resources and their revenues. At the very least there is an argument for transparency from the point of view that it represents a fundamental principle of human rights – the right to know (Birkinshaw 2006). Our objective has rather been to highlight the problems involved with viewing information instrumentally as a tool that can be wielded by policymakers in order to fix governance problems and address corruption by activating enforcement by a newly knowledgeable and empowered ‘public’.

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NOTES

1. EITI is an international organization that came into existence in 2003. It seeks to increase transparency in natural resource revenue payments from extractive industries covering oil, gas, and mining to government by making the information about the transfers public ‘to a wide audience in comprehensible manner’ and by pointing out whether the sums paid by the companies correspond with sums received by different government agencies. EITI-compliant countries are obliged to implement the EITI standard, while the annual transfer accounts are monitored by a national secretariat and external auditors and are reported in annual reports. As of August 17, 2016 there were 51 countries implementing EITI.
2. This chapter focuses on natural resource *revenues*, but similar issues have been raised with regard to the whole natural resource value chain from the granting of exploration rights and concessions to the final closure of extraction sites.

3. Besides the so-called vertical accountability mechanisms flowing from citizens to governments, civil society can apply public pressure to instigate horizontal accountability between the different elements of the state – by, for example, activating parliaments and the judiciary to constrain the power of executive government. This interplay between vertical and horizontal accountability is sometimes called diagonal accountability, and availability of reliable information is essential for the functioning of all these types of accountability mechanisms (Fox 2015).

REFERENCES

- Andrabi, T., Das, J. and Khwaja, A.I. 2014. Report cards: the impact of providing school and child test scores on educational markets. Working Paper. Pomona College.
- Banerjee, A.V., Kumar, S., Pande, R. and Su, F. 2011. Do informed voters make better choices? Experimental evidence from urban India. Working Paper. Massachusetts Institute of Technology.
- Banerjee, A.V., Banerji, R., Duflo, E., Glennerster, R. and Khemani, S. 2010. Pitfalls of participatory programs: evidence from a randomized evaluation in education in India. *American Economic Journal: Economic Policy*, 2, 1–30.
- Birkinshaw, P. 2006. Transparency as a human right. In: Hood, C. and Heald, D. (eds) *Transparency: The Key To Better Governance*: pp. 47–58. Oxford University Press. Oxford.
- Caspary, G. 2012. Practical steps to help countries overcome the resource curse: the extractive industries transparency initiative. *Global Governance*, 18, 171–184.
- Chong, A., De La O, A.L., Karlan, D. and Wantchekon, L. 2011. Looking beyond the incumbent: the effects of exposing corruption on electoral outcomes. *NBER Working Paper Series*. National Bureau of Economic Research.
- Corrigan, C.C. 2014. Breaking the resource curse: transparency in the natural resource sector and the extractive industries transparency initiative. *Resources Policy*, 41, 17–30.
- David-Barrett, E. and Okamura, K. 2016. Norm diffusion and reputation: the rise of the extractive industries transparency initiative. *Governance*, 29, 227–246.
- DFID (Department for International Development) 2012. Report from working group on theory of change (WGTOC), [https://eiti.org/files/DFID ToC.pdf](https://eiti.org/files/DFID%20ToC.pdf) (accessed August 10, 2016).
- Epreman, L., Lujala, P. and Bruch, C. 2016. High-value natural resources and transparency: accounting for revenues and peace. *Oxford Research Encyclopedia of Politics* <http://politics.oxfordre.com/> and <http://politics.oxfordre.com/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-21?rskkey=xA1ieF&result=25> (accessed August 24, 2016).
- Fenster, M. 2015. Transparency in search of a theory. *European Journal of Social Theory*, 18, 150–167.
- Fox, J. 2015. Social accountability: what does the evidence really say? *World Development*, 72, 346–361.
- Fung, A., Graham, M. and Weil, D. 2007. *Full Disclosure: The Perils and Promise of Transparency*. Cambridge University Press. Cambridge.

- Gillies, A. and Heuty, A. 2011. Does transparency work? The challenges of measurement and effectiveness in resource-rich countries. *Yale Journal of International Affairs*, 6(2), 25–42.
- Humphreys, M. and Weinstein, J.M. 2012. Policing politicians: citizen empowerment and political accountability in Uganda. Working Paper. International Growth Center.
- Karl, T.L. 2007. Ensuring fairness: the case of transparent fiscal social contract. In: Humphreys, M., Sachs, J.D. and Stiglitz, J.E. (eds) *Escaping the Resource Curse*: pp. 256–285. Columbia University Press. New York.
- Kosack, S. and Fung, A. 2014. Does transparency improve governance? *Annual Review of Political Science*, 17, 65–87.
- Lieberman, E.S., Posner, D.N. and Tsai, L.L. 2014. Does information lead to more active citizenship? Evidence from an education intervention in rural Kenya. *World Development*, 60, 69–83.
- Mejía Acosta, A. 2013. The impact and effectiveness of accountability and transparency initiatives: the governance of natural resources. *Development Policy Review*, 31, 89–105.
- Ofori, J.J.Y. and Lujala, P. 2015. Illusionary transparency? Oil revenues, information disclosure, and transparency. *Society and Natural Resources*, 28, 1187–1202.
- Ross, M.L. 2001. Does oil hinder democracy? *World Politics*, 53, 325–361.
- Scanteam 2011. Achievements and strategic options evaluation of the Extractive Industries Transparency Initiative. Oslo: <https://eiti.org/files/2011-EITI-evaluation-report.pdf> (accessed August 10, 2016).
- Sovacool, B.K. and Andrews, N. 2015. Does transparency matter? Evaluating the governance impacts of the Extractive Industries Transparency Initiative (EITI) in Azerbaijan and Liberia. *Resources Policy*, 45, 183–192.

5. Corruption and elite capture of mining community development funds in Ghana and Sierra Leone

Kendra E. Dupuy

Recent years have seen a growing recognition of the need to ensure that communities living near mining operations benefit positively from mineral extraction. Private mining companies voluntarily implement corporate social responsibility programs and have set up dozens of foundations and trust funds to address the needs of affected communities and thereby acquire a social license to operate (Kapelus 2002; Yakovleva 2005; Jenkins 2004; World Bank 2012; ICM 2012; Wall and Pelon 2011). Governments, too, have taken steps to ensure that mining-affected local communities are not only compensated for the negative effects of extraction, but that they also benefit positively from it. This is evidenced by the growing number of laws and policies that have been adopted since the late 1980s requiring governments and/or mining companies to implement socio-economic development projects in local communities (Dupuy 2014).

A handful of community development in mining laws require revenues from mining operations, such as taxes and royalties, to be placed into funds and distributed directly back to affected communities for socio-economic development purposes. While these funds have been established with good intentions, their ability to uplift mining-affected communities through increased incomes as well as social service and infrastructure provision is challenged by local power dynamics. When fund management is purposely delegated to unaccountable local institutions such as traditional or customary authorities, the likelihood is high that benefits will be unequally distributed and that these local elites will instead ‘grab’ more than they are fairly entitled to through corrupt behaviors (Søreide and Williams 2014). Improvements in collective socio-economic wellbeing are as a result likely to fail to materialize, leaving affected communities no better off than prior to mining operations.

This chapter presents a comparative case study of two West African mining revenue distribution policies that return money to local communities through state-managed funds: Ghana's Mineral Development Fund and Sierra Leone's Diamond Area Community Development Fund. Using data gathered in each country through primary documents and interviews with key informants,¹ I show how local elite capture of the decision-making process for employing these funds, as well as a lack of transparency and accountability in their actual use, has resulted in fund misuse and embezzlement. I conclude by drawing out the lessons learned for the design and implementation of community-managed natural resource funds.

REVENUE DISTRIBUTION, ELITE CAPTURE, AND CORRUPTION IN NATURAL RESOURCE MANAGEMENT

A number of policy instruments have been implemented to help countries better manage their mineral wealth (Weinthal and Luong 2006). One of these policy interventions entails the direct distribution of mining revenues from governments to citizens of resource-rich regions via specially established funds, and the management of those revenues by affected citizens. This is as opposed to state-managed resource funds such as the Alaska Permanent Fund, which benefits all Alaskan residents. I label the funds that are the focus of this chapter 'community-managed natural resource funds'.^{2,3}

Direct, targeted distribution can offset the social costs of mining, ensuring that those who suffer most from mining's negative effects are not made worse off as a result of mining operations. When distribution is purposively designed to deliver development dividends such as infrastructure and social services, it can help ensure that resource wealth is turned into economic development in the areas where extraction occurs, even if the amounts of money in question seem relatively small. Communities are empowered to determine their own developmental needs, grievances over state-led resource mismanagement resolved, and public awareness of mining revenue streams and uses enhanced (Weinthal and Luong 2006; Gillies 2010; Palley 2003; Rustad and Binningsbø 2012; Le Billon and Nicholls 2007; Davis and Franks 2014).

Two types of state-mandated distributive institutions or mechanisms can be identified in the mining sector. First, governments can directly pay affected communities, for instance by funneling a percentage of mining

revenues into state-managed funds and doling out payments directly to communities from these funds. Second, governments can require mining companies to directly pay affected communities, for instance through firm-managed trust funds and foundations, or by paying directly into state-established but community-managed funds (Söderholm and Svahn 2015).⁴ In both cases, affected communities can be involved in, or completely in charge of, spending these funds. Table 5.1 shows examples of these two types of funds.

Table 5.1 Examples of government-funded but community-managed natural resource fund laws and policies in the mining sector

Country (year)	Details
Ghana (1991)	10% of mineral royalties are placed into the Mineral Development Fund and then paid back to the communities on whose land mining takes place for use on development projects.
Philippines (1995, 1996)	Royalty payments are placed into a Trust Fund for the socio-economic development of the local community, and 1% of gross output is paid to indigenous communities.
Sierra Leone (2002)	A percentage of diamond export tax revenues is placed into the Diamond Area Community Development Fund, with money allocated back to diamond-producing communities for use on development projects.
Niger (2006)	State redistributes 15% of mining revenue back to local communities in mining-affected areas.
Laos (2008)	Investors must contribute to Community Development Funds.

Source: Based on data from Dupuy (2014).

Direct distribution of mineral revenues is not unproblematic and one of the key challenges to ensuring that targeted distribution translates into developmental dividends is corruption and elite capture in fund management. Corruption is the abuse of entrusted power for private gain, while elite capture occurs when ‘the more privileged members of communities dominate decision-making processes and, at the expense of other groups, improve their access to collective benefits’ (Saito-Jensen et al. 2010: 327). Elite capture is akin to ‘grabbing’, which occurs ‘when someone seizes something that he or she is not entitled to, or takes *more* than what is his or hers formally, informally or tacitly allocated share’ (Søreide and Williams 2014: 1). These two phenomena entail that the individuals involved in distribution, by virtue of their position of authority, mismanage or appropriate revenues and engage in rent-seeking behavior to

enrich themselves at the expense of less powerful individuals. This leads to the unequal distribution of revenues within mining-affected local communities, and ultimately results in money not reaching those who should benefit from redistribution, particularly those who should or could benefit most such as poor, vulnerable, and marginalized social groups.

CORRUPTION AND ELITE CAPTURE IN WEST AFRICAN COMMUNITY-MANAGED NATURAL RESOURCE FUNDS

Both Ghana and Sierra Leone have policies in place that require the national-level government to return a certain percentage of mineral revenues back to mining-affected local communities for use on development projects in these communities. Mining revenues are paid into state-managed funds and then redistributed to local institutions (traditional authorities and local governments) in local mining communities, who are supposed to collectively decide on funding priorities and implement development projects. In both countries, local traditional authorities (chiefs) play a key role in receiving and spending redistributed mining revenues due to their important role as local governance-providers. Chiefly authorities govern in parallel to the state, acting as custodians of land on behalf of the community, raising taxes, and providing local justice and order via customary law.

In both countries, conversion of mining revenues into development gains within mining-affected local communities has been undermined by corruption among the local traditional authorities (chiefs) that are responsible for receiving and spending revenues. Rather than deploying the funds as intended to pay for public goods like hospitals, roads, and schools, chiefly elites have diverted the funds for their private uses and to benefit supporters. This is a function of the design of these policies, which rely on unaccountable local authorities (chiefs) for implementation, lack robust accountability and transparency mechanisms, and suffer from linguistic ambiguity.

Ghana

Under Ghana's 1991 Mineral Development Fund (MDF), 10 percent of mining royalties are redistributed from the central government to mining-affected local communities for use on local economic development activities. Out of the 10 percent, 25 percent of funds is allocated to chiefs for maintenance of their offices and status, 20 percent to traditional

councils, and 55 percent to local government units (Standing and Hilson 2013; Akabzaa 2009; GHEITI 2013b). In 1993, the first year of the MDF's implementation, USD 1,033,751 was paid into the MDF, and approximately ten times that in 2011 (USD 10,720,000) (GHEITI 2013a).

Despite the fact that the MDF has been active for over twenty years and is the only policy instrument designated to address the needs of mining-affected local areas, some of Ghana's mining areas are still amongst its poorest. People have lost access to land and failed to secure employment connected to the mining sector. Few opportunities exist for people to engage in sustainable alternative livelihoods, or receive sufficient benefits from mining operations (Yankson 2010). The failure of the MDF to generate developmental gains is due to ambiguity in the wording of the MDF policy directive regarding how funds should be used; the unaccountable power of the traditional authorities in the use of the funds; and the lack of requirements and a system for tracking funds granted to these authorities.

Beyond the allocation formula detailed above, no rules exist for how decisions should be made regarding the use of funding for community purposes by the chief or the traditional council (Standing and Hilson 2013). There is no clear guidance as to what exactly maintenance of the chief's offices and status entails, and to what extent this covers personal versus collective welfare or both, given that the chief is entrusted with the community's wellbeing. The consequence of this ambiguity is that chiefs who receive the funds simply use the money for their private projects and personal ends, such as purchasing jewelry, cars, and clothing (Akabzaa 2009; Adimayoza 2013; Roe and Samuel 2007).

The detrimental effects of this linguistic ambiguity is compounded by the unaccountable nature of the chief's power. Historically, Ghanaian chiefs and traditional councils have been viewed by the communities they govern with great deference and as being largely immune from accountability (Adimayoza 2013). With limited or no participation by community members in decision-making regarding fund use and the kinglike nature of traditional authority, chiefs remain unchallenged in their use of MDF funds.

Finally, MDF funding flows are not tracked in any official budget lines, and there are no systems in place for procurement, contracting, or expenditure management (Roe and Samuel 2007). There is a lack of documentation regarding payments made by the Office of the Administrator of Stool Lands to chiefs and traditional councils, and no requirements exist for reporting on or auditing of MDF funds used by these entities (Akabzaa 2009; Adimayoza 2013; Morgandi 2008).

Sierra Leone

Sierra Leone's 2001 Diamond Area Community Development Fund (DACDF) distributes one-quarter of the 3 percent tax on diamond exports (approximately 0.75 percent of total export value) back to diamondiferous local communities for use on development projects, such as infrastructure (Dupuy and Binningsbø 2010; Fanthorpe and Gabelle 2013; Le Billon and Levin 2009; Maconachie 2009, 2010, and 2012). Traditional authorities (Paramount Chiefs) receive 80 percent of funds and local government units 20 percent, with allocation amounts issued twice yearly and based on the numbers of diamond licenses issued in each chiefdom. An average of USD 41,500 was distributed to qualifying chiefdoms between 2001 and 2006, and USD 375,000 to chiefdoms and local governments in 2011.⁵

As in the Ghanaian case, corruption and elite capture have reduced the potential for this policy to contribute to significant development gains in some of the country's diamond-mining chiefdoms. Diamond-mining areas continue to score amongst the country's lowest on key education and health indicators, while there are still no paved roads leading to the country's major diamond-mining district of Kono. As Maconachie (2012) argues, the three biggest challenges of the DACDF have been the effective use of funds, transparency and accountability in the use of funds, and citizen awareness of and participation in decision-making about the fund.

Between 2001 and 2004, DACDF payments were simply handed over by central government officials to Paramount Chiefs⁶ in public meetings with communities, but communities were given little information about the fund and its purposes (Maconachie 2012).⁷ A series of reports in 2002 and 2003 highlighted how a number of chiefdoms were not using the funds in an appropriate manner, with as much as 60 percent of the funds having disappeared since 2001 and no community participation in determining how funds were to be used (Maconachie 2009: 76).

Government reforms of the fund's procedures in 2003 led to the establishment of Chiefdom Development Committees (CDCs) to broaden participation in decision-making about the use of DACDF monies. While more funds were accounted for in 2003 as a result of these efforts, in reality, the CDCs came to be dominated by rural male elites affiliated with the chief and landowning families. This, in combination with a continued failure to require any reporting, monitoring and evaluation, minimum project selection and implementation standards, broad-based participation in funding decisions, or public sensitization regarding funding amounts and uses, allowed CDCs to divert funds to their private

pockets and to invest in projects that primarily benefitted the traditional elite and supported their hold on power (Jackson 2007; NMJD 2006: 13; see also NACE 2009).

The DACDF was again reformed between 2006 and 2008, with requirements created for a project proposal and selection process as well as for procurement, tendering, and monitoring and evaluation. The signatures of both the Ministers of Mineral Resources and of Local Government are now required on all approved DACDF disbursement requests, and two signatures for Chiefdom Development bank accounts, to which DACDF payments are distributed by the central government. The allocation formula was also changed to funnel money toward local government and rules for greater harmonization between local and traditional governments put in place. However, while these revisions seemed very promising when released, interviews I conducted in the country during 2013 as well as a post-reform civil society report pointed to continuing concerns regarding the lack of effective monitoring mechanisms, poor record keeping, and limited community participation and knowledge about the fund, with chiefs and traditional elites still maintaining control over project decisions and expenditures (Kanu 2010).

THE CRITICAL ROLE OF INSTITUTIONAL DESIGN

The Ghanaian and Sierra Leonean cases demonstrate that community-based natural resource management is not a panacea for translating mineral revenues into development; rather, it can work to entrench local elites' hold on power and thus undermine the ability of policies to turn resource revenues into community-wide improvements in life quality. A key lesson learned from these cases is that when the implementation of mining revenue distribution policies depends on unaccountable local-level institutions, revenues are more likely to be siphoned off for private uses and funneled toward selective interests, rather than used to enhance the collective welfare.

Direct distribution of mining revenues from national or subnational governments to local communities requires the presence of strong institutions of accountability at all levels to prevent corruption and elite capture in the collection, transfer, and use of funds (Weinthal and Luong 2006; Ross 2007). Designing good regulatory institutions that govern revenue distribution requires a solid understanding of the incentives of key actors as well as creating mechanisms that restrict the choices available to those actors and shape their incentives to produce good collective outcomes (Kolstad and Søreide 2009; North 1990). Mapping

out and understanding the local power dynamics that resource management is embedded in, particularly land, labor, and social relations, is critical to designing good community-managed natural resource fund policies and laws.

As I have argued in other work (see Dupuy 2015), policymakers have several options at their disposal to mitigate corruption risks when designing financial benefit sharing mechanisms in natural resource sectors, including community-managed natural resource funds. Transparency can be strengthened in these funds through clear rules for fund allocation and use, public reporting on revenue flows and uses, open contracting and procurement, and monitoring and evaluation procedures. Participation entails providing meaningful ways for community members – especially the vulnerable and marginalized – to contribute to decision-making processes for using funds. It creates vital checks and balances in fund administration, including in project selection and bank withdrawals. Accountability is achieved through independent oversight and auditing of fund management as well as creating opportunities for beneficiaries to hold decision-makers to account through grievance and complaint mechanisms and then actually holding these individuals to account through robust sanctions measures to demonstrate the costs of corrupt behavior. Finally, integrity measures such as codes of conduct and good practice can help to instill preferences for anti-corruption.

NOTES

1. I gathered data in Sierra Leone in 2008 and 2013, and in Ghana in 2013.
2. Scholars use different terms for resource revenues that are directly distributed to either all or some citizens of a state, including ‘citizen funds’ (Hjort 2006) and ‘direct dividend payments’ (Guigale and Nguyen 2014). Mining revenues that accrue to governments include corporate and income taxes, royalty payments, and land use and license fees.
3. As Maconachie (2009) points out, community-managed natural resource funds are based on a long tradition of community-based, decentralized, participatory approaches to natural resource management in Africa. Community-based natural resource management is premised on the idea that local populations have a greater interest in, knowledge about, and ability to manage resources than the state or private companies. Non-governmental organizations have also promoted this form of management as a way of achieving social justice for traditionally marginalized peoples (Brosius, Tsing, and Zerner 1998; Agrawal and Gibson 1999).
4. Examples of the second type are found in Ghana and Liberia. In Ghana, AngloGold Ashanti’s renegotiated Stability Agreement from 2004 includes a requirement to set up Community Trust Funds to support community development projects in affected areas. In Liberia, ArcelorMittal’s renegotiated Mineral Development Agreement from 2007 includes a requirement to establish County Social Development Funds to benefit the local communities affected by the company’s operations.
5. Figures come from the Sierra Leone National Minerals Agency and the Ministry of Mines.

6. Paramount Chiefs are the top executives of Sierra Leone's chiefdoms and constitute the third and bottom level of the country's governance structure. While chiefs are elected into office by ruling, hereditary, 'autochthonous' families in each chiefdom, they are appointed for life, have little oversight, and are known to abuse (and in the past to have heavily abused) their power and to engage in corruption (Jackson 2007).
7. Interview with local civil society representative, September 26, 2008, Freetown.

REFERENCES

- Adimayoza, T.N. 2013. 'Staying ahead of the curve: meeting Ghana's commitment to good governance in the mining sector'. *Journal of Energy and Natural Resources Law*, 31(2): 147–170.
- Agrawal, A. and C.C. Gibson 1999. 'Enchantment and disenchantment: the role of community in natural resource conservation'. *World Development*, 27(4): 629–649.
- Akabzaa, T. 2009. 'Mining in Ghana: implications for national economic development and poverty reduction'. In B. Campbell (ed.), *Mining in Africa: Regulation and Development*: 25–65. Pluto Press. Ottawa.
- Brosius, J.P., A.L. Tsing, and C. Zerner 1998. 'Representing communities: histories and politics of community-based natural resource management'. *Society and Natural Resources*, 11(2): 157–168.
- Davis, R. and D. Franks 2014. 'Costs of company–community conflict in the extractive sector'. Harvard University Corporate Social Responsibility Initiative. Cambridge, MA.
- Dupuy, K. 2014. 'Community development requirements in mining laws'. *Extractive Industries and Society*, 1(2): 200–215.
- Dupuy, K. 2015. 'Corruption risks and experiences in REDD+ financial benefit sharing mechanisms'. U4 Anti-Corruption Resource Centre. Brief No. 11. Chr. Michelsen Institute. Bergen.
- Dupuy, K. and H. Binningsbø 2010. 'The Diamond Area Community Development Fund: implementing a wealth sharing policy in Sierra Leone'. Presented at the 2010 annual conference of the International Studies Association, New Orleans.
- Fanthorpe, R. and C. Gabelle 2013. 'Political economy of extractives governance in Sierra Leone'. Report prepared for the World Bank.
- Ghana Extractive Industries Transparency Initiative (GHEITI) 2013a. 'Final Report on the reconciliation of mining sector payments and receipts: 2010–2011'. Ghana Extractive Industries Transparency Initiative (GHEITI). Accra. Ghana.
- Ghana Extractive Industries Transparency Initiative (GHEITI) 2013b. 'Ghana stakeholders call for minerals revenue management law'. In *GHEITI Newsletter*, Volume 6, May 2013, pp. 10–11. Ghana Extractive Industries Transparency Initiative (GHEITI). Accra. Ghana.
- Gillies, A. 2010. 'Giving money away: the politics of direct distribution in resource rich states'. Centre for Global Development Working Paper 231. Washington, DC.

- Guigale, M. and N.T.V. Nguyen 2014. 'Estimates of the potential scale of direct dividend payments in Africa'. Centre for Global Development Working Paper 368. Washington, DC.
- Hjort, J. 2006. 'Citizen funds and Dutch disease'. *Resources Policy*, 31(3): 183–191.
- ICMM 2012. *Community Development Toolkit*. International Council on Mining and Metals. London.
- Jackson, P. 2007. 'Reshuffling an old deck of cards? The politics of local government reform in Sierra Leone'. *African Affairs*, 106(422): 95–111.
- Jenkins, H. 2004. 'Corporate social responsibility and the mining industry: conflicts and constructs'. *Corporate Social Responsibility and Environmental Management*, 11(23–24): 1–12.
- Kanu, J. 2010. 'Mining revenue streams and their development impact on communities affected by mining'. Report prepared for Network Movement for Justice and Development.
- Kapelus, P. 2002. 'Mining, corporate social responsibility and the "community": the case of Rio Tinto, Richards Bay Minerals and the Mbonambi'. *Journal of Business Ethics*, 39: 275–296.
- Kolstad, I. and T. Søreide 2009. 'Corruption in natural resource management: implications for policy makers'. *Resources Policy*, 34(4): 214–226.
- Le Billon, P. and E. Levin 2009. 'Building peace with conflict diamonds? Merging security and development in Sierra Leone'. *Development and Change*, 40(4): 693–715.
- Le Billon, P. and E. Nicholls 2007. 'Ending "resource wars": revenue sharing, economic sanction, or military intervention?' *International Peacekeeping*, 14(5): 613–632.
- Maconachie, R. 2009. 'Diamonds, governance, and "local" development in post-conflict Sierra Leone: lessons for artisanal and small-scale mining in sub-Saharan Africa?' *Resources Policy*, 34: 71–79.
- Maconachie, R. 2010. "'New spaces" for change? Diamond governance reforms and the micro-politics of participation in post-war Sierra Leone'. *Public Administration and Development*, 30(3): 191–202.
- Maconachie, R. 2012. 'The Diamond Area Community Development Fund: micropolitics and community-led development in post-war Sierra Leone'. In P. Lujala and S.A. Rustad (eds), *High-Value Natural Resources and Peacebuilding*: 193–211. Earthscan. London.
- Morgandi, M. 2008. 'Extractive industries revenue distribution at the sub-national level: the experience in seven resource-rich countries'. Report prepared for Revenue Watch Institute. Revenue Watch Institute. New York.
- National Advocacy Coalition on Extractives (NACE) 2009. 'Sierra Leone at the crossroads: seizing the chance to benefit from mining'. NACE. Freetown.
- Network Movement for Justice and Development – Sierra Leone (NMJD) 2006. 'An impact audit study on the Diamond Area Community Development Fund (DACDF)'. Network Movement for Justice and Development. Freetown.
- North, D.C. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge University Press. Cambridge.

- Palley, T.I. 2003. 'Combating the natural resource curse with citizen revenue redistribution funds: oil and the case of Iraq'. *Foreign Policy in Focus*, Special Report.
- Roe, A. and J. Samuel 2007. 'Ghana country case study: the challenge of mineral wealth: using resource endowments to foster sustainable development'. International Council on Mining and Metals. London.
- Ross, M.L. 2007. 'How mineral-rich states can reduce inequality'. In M. Humphreys, J.D. Sachs, and J.E. Stiglitz (eds) *Escaping the Resource Curse*: 237–255. Columbia University Press. New York.
- Rustad, S.A. and H.M. Binningsbø 2012. 'A price worth fighting for? Natural resources and conflict recurrence'. *Journal of Peace Research*, 49(4): 531–546.
- Saito-Jensen, M., I. Nathan, and T. Treue 2010. 'Beyond elite capture? Community-based natural resource management and power in Mohammed Nagar village, Andhra Pradesh, India'. *Environmental Conservation*, 37(3): 327–335.
- Söderholm, P. and N. Svahn 2015. 'Mining, regional development and benefit-sharing in developed countries'. *Resources Policy*, 45: 78–91.
- Søreide, T. and A. Williams 2014. 'Introduction'. In Tina Søreide and Aled Williams (eds), *Corruption, Grabbing and Development: Real World Challenges*: 1–20. Edward Elgar Publishing. Cheltenham, UK and Northampton, MA, USA.
- Standing, A. and G. Hilson 2013. 'Distributing mining wealth to communities in Ghana: addressing problems of elite capture and political corruption'. U4 Anti-Corruption Resource Centre. Issue Paper No. 5. Chr. Michelsen Institute. Bergen.
- Wall, E. and R. Pelon 2011. 'Sharing mining benefits in developing countries: the experiences with foundations, trusts, and funds'. The World Bank Extractive Industries for Development Series #21. Washington, DC.
- Weinthal, E. and P.J. Luong 2006. 'Combating the resource curse: an alternative solution to managing resource wealth'. *Perspectives on Politics*, 4(1): 35–53.
- World Bank 2012. *Mining Community Development Agreements Source Book*. The World Bank. Washington, DC.
- Yakovleva, N. 2005. *Corporate Social Responsibility in the Mining Industries*. Ashgate Publishing. Burlington, VT.
- Yankson, P.W.K. 2010. 'Gold mining and corporate social responsibility in the Wassa West District, Ghana'. *Development in Practice*, 20(3): 354–366.

6. Misuse of the Malampaya royalty fund

Grizelda Mayo-Anda

In 2008, the provincial government of Palawan received USD 87 million from the proceeds of the Malampaya natural gas development project.¹ The budget appropriation was the result of an interim agreement between the provincial government and the national government even while a legal dispute was pending before the Supreme Court as to whether Palawan has a legal and justified claim to the royalty.² The fund was subdivided into three shares placed under the discretion of the provincial government entity and two congressional districts. A portion of the share for the second congressional district was further subdivided in two with a portion placed under the control of the city government of Puerto Princesa.³

The Malampaya project was the country's first successful natural gas discovery. Underwater pipeline infrastructure extending over 500 kilometers was built from an offshore platform around 80 kilometers from northern Palawan's mainland coast to Batangas province and further to Luzon⁴ where it fed three major power plants supplying close to 50 percent of Luzon's power requirements. The gas reserve, operated by a consortium of oil companies led by Shell Philippines Exploration, is estimated to contain some 3 trillion cubic meters of natural gas.

Under the Philippine constitution and the country's Local Government Code, a local government unit is entitled to a 40 percent share of the royalty derived from all natural wealth. The code also sets general guidelines on how such income should be used, for example 80 percent should be used for energy development projects directly beneficial to communities. Civil society organizations actively took part in debates regarding the Malampaya royalty fund from the outset. Many were critical of the infrastructure projects identified by the political leadership that had control over the funds.⁵ Among the most vocal critics of the fund's

utilization was Gerry Ortega, a popular radio commentator and environmentalist in Puerto Princesa City, Palawan. He devoted his regular commentary program to exposés of Malampaya projects, criticizing the then Palawan governor and several other key local officials involved in the project's implementation. Ortega focused his commentary on the revenue-sharing scheme applied to the Malampaya funds and the absence of transparency in the identified projects' implementation. During his radio programs he exposed alleged anomalies covering issues such as the overpricing of projects and the awarding of projects to favored contractors.

On January 24, 2011, Gerry Ortega was murdered. He was shot from behind by a gunman while out shopping following his radio program. The gunman attempted to flee the shooting but was cornered in a chase involving a fire-crew who were passing the crime scene. A criminal investigation led to the arrest of other suspects and the surrender of a key witness who opted to become a state witness. A former security aide of the former Palawan governor, who was initially alleged to be the person who recruited the gunman for the hit job, surrendered to authorities a month into the police investigation and offered to become a state witness testifying against the alleged mastermind, the former Palawan governor.⁶ A year after the shooting of Ortega, murder charges were filed against the former governor, his brother as an alleged accomplice, and several other personalities who were known associates of the former governor. The former governor and his brother fled the country prior to the local court's issuance of an arrest warrant.⁷

Palawan's Malampaya share has defined the province's political dynamics and influenced the local government's decisions. It has also heightened policy debates within local government on what should be the priorities for government funding and how such priorities should be identified. An official audit of the funds after the project's implementation, conducted by the Commission on Audit (COA), showed rampant violations of government contracting procedures.⁸ The audit report prompted the filing of graft charges against individual government officials found to have been responsible or party to the misuse of the royalty funds. The COA audit unveiled flaws in existing laws and regulatory policies with respect to natural wealth shares of local governments. It also demonstrated the vulnerability of existing government institutions to political and personal influence in a very specific situation where significant power and resources were at stake.

ROYALTY SHARING

The royalty received by Palawan from the Malampaya project was a significantly smaller portion of what it would have received had the provision of the Local Government Code (LGC Republic Act No. 7160) on the 40 percent share of gross royalties from natural wealth been applied.⁹ Under former President Gloria Macapagal Arroyo, the national government took a position that the Camago Malampaya gas field, being located over 80 kilometers off Palawan's nearest mainland feature, was outside the province's territorial limits. With Palawan challenging this assertion, the issue was placed under the judicial determination of the Supreme Court.

The administration of the then governor wanted to utilize what it believed was Palawan's rightful share from the Malampaya project. In 2007, the provincial government, represented by the former governor, entered an Interim Agreement with the Arroyo administration, represented by the Secretaries of the Department of Energy (DOE), the Department of Budget and Management (DBM) and the Department of Finance (DOF). Accordingly, Executive Order (EO) No. 683 was issued on December 1, 2007, authorizing the DBM to release funds to the implementing agencies chargeable against Malampaya revenue collection (Commission on Audit 2011a, 2011b).

This provisional implementation agreement paved the way for Palawan to receive Malampaya royalties even while the jurisdictional issue was yet to be resolved in the courts. The agreement stipulated that the provincial government and the two congressional districts would determine the utilization of a portion of the disputed amount. The remaining portion was to be utilized by the Department of Energy for its projects in Palawan.¹⁰

THE MOTIVE BEHIND THE ORTEGA MURDER

The Senate Blue Ribbon Committee conducted an investigation into Palawan's Malampaya fund anomaly as well as Ortega's death, concluding Ortega's death was directly linked to his exposé of the Malampaya fund misuse.¹¹ The former governor was indicted along with his brother and several close associates for the Ortega murder. The brothers, however, escaped the country to elude arrest. In December 2015, they were arrested in a resort village in Phuket, Thailand, by local authorities who turned them over to the Philippine government.¹² The co-accused had pleaded not guilty to the murder charge. Three years into the main

trial of the case, the Regional Trial Court, however, convicted several other accused including the hired gunman and the former governor's personal aide.¹³ The evidence presented by the victim's family as complainant included the result of the police investigation of the murder and the testimony of a key witness.

HOW THE FUND WAS MISUSED

In 2008, the DBM released the amount of P2.572 billion (equivalent to almost USD 56 million) to the provincial government of Palawan. The fund was disbursed to Palawan in separate Special Allotment Release Orders (SARO) by the Department of Budget and Management for projects identified separately by the Provincial Government, the city government of Puerto Princesa, the 1st Congressional District and the 2nd Congressional District.

The portion received by the provincial government amounted to P966 million (equivalent to USD 21 million). The bulk of this amount, over P400 million (equivalent to USD 8.6 million), was allocated to the Coron Bay Reclamation Project in the municipality of Coron, originally envisioned as a 40 ha reclamation project along Coron Bay which the then provincial governor described as a turnkey project designed to boost tourism development in the entire region. The project was a joint undertaking of the provincial government and the municipality of Coron whose mayor at the time was the governor's younger brother.

The provincial government of Palawan at the time the Coron Bay Reclamation Project started had just adopted a tourism masterplan for northern Palawan, a planning project that was assisted by the Japan Bank for International Cooperation (JBIC 2003). The tourism masterplan did not include the reclamation project as a priority, calling instead for the development of tourism destinations in portions of Busuanga, with Coron mainly serving as a jump-off point (Tomeldan 2009).

For the portion of the first congressional district funds amounting to P816 million (equivalent to USD 17.7 million), the relevant congressional representative chose to use the provincial government as its implementing agency, with the bulk of the funds pouring into the development of the San Vicente airport. Similar to the Coron reclamation project, the development of the San Vicente airport was not prescribed in the tourism masterplan, which called for the development of the existing municipal airport of Busuanga.

The share of the second congressional district of Palawan, amounting to P520 million (equivalent to USD 11 million), was used mainly for infrastructure projects – mostly road improvements and several school facilities in Southern Palawan with the Department of Public Works and Highways (DPWH) as the implementing agency. Tucked into the second congressional allocation was P270 million (equivalent to USD 5.8 million) as a separate share for the City of Puerto Princesa, which was used mainly for the completion of the Baywalk Reclamation Project.

AUDITS BY THE COMMISSION ON AUDIT (COA)

The two separate COA special audits were prompted in part by the demand for transparency by civil society groups in Palawan. In 2011, the COA released the first of two audit reports pertaining to the funds used for projects implemented by the provincial government of Palawan. The second report came out in the last quarter of 2012, and dealt with the portion released to the Department of Public Works and Highways.

The first COA report, produced by the Fraud Audit and Investigation Office of the Commission on Audit, covered the audit of the funds allocated to the provincial government and the first congressional district amounting to P1.782 billion (equivalent to USD 38.7 million). The report pointed out mainly how the implementing agencies had contravened standard and established government bidding rules in order to favor certain contractors. It highlighted the malpractices committed by the province's Bids and Awards Committee (BAC) in all the various aspects of awarding the projects from their advertisement to the selection of the contractors. The provincial BAC had awarded 217 infrastructure projects totaling P1.7 billion to contractors without following standard procedures in posting the bid invitation in the Government Electronic Procurement System (PhilGEPS) and on its website. The COA recommended the filing of criminal and administrative charges against the former provincial governor and the members of the BAC.

The second COA report covered the audit of the funds used in the second congressional district. The COA questioned the implementing agency's identification of 21 infrastructure projects costing P520 million for mostly roads and bridges costing a uniform amount of P20 million each (equivalent to USD 444,444). The report pointed mainly to how the implementing agencies had contravened standard and established government bidding rules in order to favor certain contractors, and to the overpricing of buildings and delays. It underscored allegations separately raised by a bishop of the *Kilusang Love Malampaya* (KLM; Love

Malampaya Movement) that certain projects identified by the congressman of the district and implemented by DPWH using Malampaya funds were either overpriced, substandard or non-existent in some cases. Investigations conducted by the National Bureau of Investigation of the same projects also indicated numerous cases of fund misuse (NBI 2010).

SENATE BLUE RIBBON INVESTIGATION

The Senate Blue Ribbon Committee confirmed during hearings conducted in early 2013 that nearly all of the funds had been misused and taken advantage of by certain Palawan political leaders who were given almost full discretion on their use. A notice of disallowance was issued to the provincial government in relation to the funds determined by the COA special audit as having been misused.

The COA had also coordinated with the Office of the Ombudsman to start the filing of administrative and criminal charges against those responsible for the Malampaya fund misuse, including the former Palawan governor. The root of the Malampaya fund misuse lies in the manner key political leaders influenced the way in which the projects funded by the revenue were undertaken. The COA established that there were widespread irregularities in the conduct of bidding so that the infrastructure projects were undertaken by a select and favored group of local contractors. The manner in which the Malampaya funds were initially used in Palawan showed more than just a deeply rooted culture of corruption in a given setting, but also underlined the weakness of the policy environment that guided the use of natural wealth.

The former governor and his brother arrested in Thailand in late September 2015, were later detained in Puerto Princesa City Jail. Court proceedings leading to their trial began in October 2015. Members of the Provincial Bids and Awards Committee have been sued by the Ombudsman and have been penalized with removal from public office and with fines.

IMPROVING GOVERNANCE OF NATURAL GAS ROYALTIES AND SIMILAR FUNDS

The Philippines has established a legal policy framework that promotes good governance, curbs corruption and ensures sustainability in the utilization of its natural resources. These are embodied in the Local

Government Code and in numerous special laws and enactments that address social equity and environmental issues.

On the ground, however, in the case of the use of Palawan's royalty shares, no mechanisms were in place to pre-empt or contain widespread rent-seeking practices. This description has been echoed by the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP) in its scoping study on social accountability in the Philippines:

While there is no dearth of laws and institutions, they have been reduced to mere formalities. Clientelism and bureaucratic capture continue to characterize governance institutions in the country. They are not driven by public interest but are in fact captured by economic and political interests. (ANSA 2010)

The highest ranking public officials in Palawan were able to plunder the Malampaya royalty fund through their network of local and national officials and contractors, and by taking advantage of existing rules on government bidding and awards to justify the release of funds. The Bids and Awards Committee (or BAC) facilitated the award of infrastructure projects to contractors and engineers who were close to these public officials. Corruption, in this case, is not the absence of rules but the presence of alternative norms (Robbins 2000): the rent-seeking norms of high-ranking public officials.

CONCLUSION

The COA investigations and the Senate Blue Ribbon inquiry uncovered separate aspects of how the Malampaya funds disbursed to Palawan were misused, citing mainly irregularities in the identification of projects and the awarding of infrastructure contracts. While the COA recommended the filing of criminal and administrative charges against government personalities involved in the misuse of funds, the actual cases have yet to be filed in court by the Ombudsman. Palawan's experience with its first revenue windfall from natural wealth demonstrates the high risk of corruption for wealth-sharing mechanisms across various levels of government. But misuse of the Malampaya funds in Palawan turned out to be just the tip of an iceberg: a further anomaly was exposed linking national legislators and local executives to suspicious transactions involving the Malampaya funds.

In November 2014, the Senate Blue Ribbon Committee conducted a separate investigation on the use of the national government's portion of the Malampaya fund. The investigation led to the filing of plunder

charges against three senators over charges that they received kickbacks from Malampaya funds placed at their disposal.¹⁴ As of the time of writing, the Supreme Court has yet to rule on the jurisdiction of the Malampaya gas reserves and resolve the contention made by the national government that the offshore deposit is no longer part of the administrative domain of the province of Palawan.

While the Local Government Code of the Philippines had established a formula for royalty sharing between the national and the local government, it has yet to be applied in the case of Palawan. This has led to a gray area where the initial amount released to the province ended up under the discretion and control of local political leaders with little or no oversight from relevant branches of government. Civil society groups in Palawan had proposed that the fund be placed in trust and utilized in a manner where effective oversight could be exercised. This policy recommendation has not yet been adequately addressed by the government.

NOTES

1. Executive Order No. 683, 'Authorizing the use of fees, revenues and receipts from Service Contract 38 for the implement of development projects for the people of Palawan', signed December 1, 2007.
2. The national government, under the administration of then President Gloria Macapagal Arroyo, took the position that the Camago Malampaya gas reserve was outside the administrative jurisdiction of the province of Palawan. The provincial government in turn filed an arbitration case initially before the regular courts, where it won, until Malacanang elevated the matter to the Supreme Court in 2003.
3. E.O. 683.
4. Luzon is the largest island of the Philippines and is located in the northern part of the country.
5. 'Bring all those who raided Malampaya funds to justice'. A press statement of Centerlaw, September 22, 2015. See: www.harryroque.com/?p=2676.
6. See: <http://news.abs-cbn.com/nation/regions/03/13/12/ex-palawan-gov-indicted-gerry-ortega-killing> (accessed 3 November 2015).
7. 'Reyes brothers in Ortega killing arrested in Thailand', *Philippine Daily Inquirer*, September 21, 2015.
8. 'COA files 46 counts of graft vs. ex gov', *Philippine Daily Inquirer*, September 28, 2013.
9. Palawan's Malampaya: Lost, Found, Waster. A Special Report. See: www.interaksyon.com/palawans-malampaya. See also 'Power from the Deep' at www.malampaya.com which describes the Malampaya Deep Water Gas-to-Power Project, a joint undertaking of the Philippine national government and operated by Shell Philippines Exploration B.V. (SPEX) on behalf of joint venture partners Chevron Malampaya LLC and the PNOX Exploration Corporation.
10. Executive Order No. 683, 'Authorizing the use of fees, revenues and receipts from Service Contract 38 for the implement of development projects for the people of Palawan', signed December 1, 2007.
11. 'Ortega Slay Traced to Malampaya Fund Misuse', *Philippine Daily Inquirer*, February 8, 2013, <http://newsinfo.inquirer.net/354579/ortega-slay-traced-to-malampaya-fund-misuse> (accessed 3 November 2015).

12. 'Reyes brothers in Ortega killing arrested in Thailand', *Philippine Daily Inquirer*. September 21, 2015, <http://newsinfo.inquirer.net/723900/reyes-brothers-in-ortega-killing-arrested-in-bangkok> (accessed 3 November 2015).
13. 'Aide of Ex Palawan Gov Convicted for Murder', *Philippine Daily Inquirer*. March 8, 2016, <http://newsinfo.inquirer.net/771495/aide-of-ex-palawan-gov-convicted-for-murder-of-broadcaster> (accessed 15 March 2016).
14. 'Malampaya fund audit explosive', *Philippine Daily Inquirer*. September 20, 2013.

REFERENCES

- ANSA-EAP. 2010. *Social Accountability Practice in the Philippines: A Scoping Study*. Affiliated Network for Social Accountability in East Asia and the Pacific. Manila.
- Commission on Audit. 2011a. *Report on the Audit of the Malampaya Funds Allocated to the Provincial Government of Palawan and the First Congressional District Totaling P1.782 Billion*, Part I, Report No. 2011-006. Philippine Commission on Audit. Manila.
- Commission on Audit. 2011b. *Report on the Audit of the Malampaya Funds Allocated to the Provincial Government of Palawan and the First Congressional District Totaling P1.782 Billion*, Part II, Report No. 2011-006. Philippine Commission on Audit. Manila.
- Executive Order No. 683. 2007. 'Authorizing the use of fees, revenues and receipts from Service Contract 38 for the implement of development projects for the people of Palawan'. Republic of the Philippines. Manila.
- Japan Bank for International Cooperation (JBIC). 2003. JBIC Briefing Material on Sustainable Environmental Management Project in Northern Palawan. Country Office Division 3, Development Assistance Dept. I (Philippines and Oceania Countries). Internal document. JBIC. Tokyo.
- National Bureau of Investigation (NBI). 2010. *Report on the Malampaya Funds Allocated to the Second Congressional District of Palawan*. Philippine National Bureau of Investigation. Manila.
- Philippine Daily Inquirer*. 2013. *Ortega slay traced to Malampaya fund misuse*. February 8.
- Philippine Daily Inquirer*. 2013. *COA files 46 counts of graft vs. ex gov*. September 28.
- Philippine Daily Inquirer*. 2013. *Malampaya fund audit explosive*. September 20.
- Philippine Daily Inquirer*. 2015. *Reyes brothers in Ortega killing arrested in Thailand*. September 21.
- Philippine Daily Inquirer*. 2016. *Aide of Ex Palawan Gov Convicted for Murder*. March 8.
- Republic Act No. 7160. *An Act Providing for a Local Government Code of 1991*. Republic of the Philippines. Manila.
- Robbins, P. 2000. 'The rotten institution: corruption in natural resource management'. *Political Geography*, 19(4), 423–443.
- Roque, H. 2015. 'Bring all those who raided Malampaya funds to justice', a Press Statement of Centerlaw, www.harryroque.com/?p=2676 (accessed August 10, 2016).

Tomeldan, M.V. 2009. 'Tourism structure plan of Busuanga and Coron, Northern Palawan: comprehensive development through tourism'. *Muhon*. Issue No. 3. University of the Philippines College of Agriculture. Laguna.

PART II

Renewable resource sectors

7. When bad gets worse: corruption and fisheries

Ussif Rashid Sumaila, Jennifer Jacquet and Allison Witter

There have been concerns for several decades over the open-access and common-pool nature of certain resources (for example, Hardin 1968). In fisheries, Gordon (1954) notably argued that the absence of property (access) rights leads fishermen to overcapitalize their boats in a competitive ‘race to fish’, which results in a dissipation of economic rent, and depletion of the resource. However, even where fisheries management measures have been implemented to help avoid this overexploitation, corrupt practices can negate efforts to end overfishing or rebuild fish stocks. This is particularly true where commercialization and increased global trade in marine species have eroded traditional marine management systems (Hickey 2006). Corruption constitutes a significant threat to the marine environment, global food security, national economies and local livelihoods in coastal communities.

Corruption can be thought of as the misuse of public office for private gain (Shleifer and Vishny 1993; Treisman 2000; Sundström 2013), through either a commission of crime or an omission of duty (Gore et al. 2013). Weak governments that do not control their agencies often experience high levels of corruption (Kolstad and Søreide 2009). According to Robbins (2000: 425), ‘corruption in natural resource management is defined as the use or overuse of community (state, village, city, etc.) natural resources with the consent of a state agent by those not legally entitled to it’. Yet, corruption can also extend beyond the governmental sector to include the abuse of private office for individual gains (Bardhan 2006). Thus, we also interpret ‘corruption’ in fisheries to comprise other acts of ‘cheating’ whereby individuals or larger entities act in an illegal manner that undermines not only the fisheries resources themselves, but also the management of those resources. The potential for such types of ‘corrupt’ activities exists at every link in the natural resource (for example, seafood) supply chain, as will be described later in the chapter.

Although corruption was at one point widely accepted as a means to overcome bureaucratic hurdles to economic growth, the collective attitude toward corruption changed drastically in the 1990s, and it is now viewed not only as unethical and an economic hindrance, but as something that can be controlled (Eigen and Eigen-Zucchi 2003; Kolstad and Søreide 2009). In fisheries and other resource management, corruption leads to failures in the achievement of management goals, such as by eroding local incentives for resource stewardship (Sundström 2012). It is therefore important to identify where it exists and how it might be eliminated.

Fisheries corruption has likely worsened as wild-caught fish have been overexploited and trade in fish and fisheries products has increased (Stiles et al. 2013; Fabinyi 2016). Worldwide, per capita consumption of fish nearly doubled between the 1960s and 2012 (FAO 2014). However, wild-caught fish catches likely peaked in the late 1980s (Watson and Pauly 2001), and growing seafood demand now outpaces the supplies available from capture fisheries (FAO 2014). Interestingly, corruption in fisheries has not always been subject to the same degree of scrutiny or public awareness as it has in other resource sectors (Standing 2008). Here, we provide illustrative examples of fisheries corruption at the institutional, extractive, and supply chain levels, in order to explore options for mitigating corruption within the entire seafood sector.

EXAMPLES OF CORRUPTION IN FISHERIES

Corruption in Fisheries Institutions

Corruption spans all aspects of fisheries, starting with the institutions that oversee fishing. At the international level, what one may call ‘soft’ corrupt practices can occur within organizations meant to conserve marine life. For example, Japan has bought votes within the International Whaling Commission (IWC), a global body established to sustainably manage and conserve whales, by increasing its foreign aid to countries that support its pro-whaling stance (Dippel 2015; Miller and Dolšak 2007). Even though this may not completely fit the definition of corruption, it may well be seen as ‘soft’ corruption because of its effect on the system.

There is also potential for international fisheries corruption during the negotiation of access agreements between rich and poor countries (Illyckyj 2007; Standing 2015). These processes are rarely transparent, lead to an unfair distribution of fisheries resources and export fishing

overcapacity from the north to the south. This not only threatens food security, but also undermines developing world economies insofar as payments to access foreign waters tend to greatly undervalue the resource.

For example, since 2010, Senegal has granted authorization to at least 44 foreign (primarily Russian) ‘super trawlers’ to target small-pelagic fish in Senegalese waters. However, the agreements that led to these authorizations have been shrouded in secrecy, and their legality under Senegal’s existing fisheries laws has been questioned. In addition, the licensing terms of the access agreements have been substantially more favorable to foreign trawlers than regular Senegalese fishing licenses would be. The subsequent large-scale foreign pelagic fishing operations in Senegal’s waters threaten local fishing livelihoods, and have a cascading effect on other marine species as well as a substantial amount of bycatch (Standing 2015). Similar situations exist around the world (see Havice 2010; Hanich and Tsamenyi 2009).

At the national and regional levels of fisheries management, corruption can take several forms. For example, fisheries corruption can occur through statistical misrepresentation, such as China’s large-scale over-reporting of fish catches prior to 1998 (Watson and Pauly 2001). Bribery can also be prevalent, including between fishery officials and fishers (Sundström 2014; Standing 2008). In some South African fisheries, monetary payments and gifting of fish catch from fishers to fisheries inspectors allow for minimum size restrictions to be overlooked; over time, this has eroded compliance with fisheries regulations (Sundström 2013). In one particular case, 18 South African fishery officers were convicted, following a paper trail that uncovered bribes (Hauck and Kruse 2006, Sundström 2013). Besides some well-publicized cases, however, most bribery cannot be traced and, when it is uncovered, may go unpunished. In addition, a fisher or enforcer may instigate a bribe, and existing social ties between the two parties may cloud perceptions of whether bribery has actually been committed (Sundström 2013), as well as complicating the success of measures introduced to mitigate this type of corruption. This suggests that modernizing governance and monitoring systems alone may have limited impact in such contexts.

Where fisheries legislation is adequate, enforcement may be lacking (Atta-Mills et al. 2004; Gore et al. 2013). In some instances, enforcement is undermined by corruption in higher political ranks. In 2001, one of the authors (JJ) was in the Galapagos National Park shortly after authorities caught the *San Mateo*, an Ecuadorian long-liner, illegally fishing for sharks within the Galapagos Marine Reserve. According to local reports, the *San Mateo* captain’s lawyer happened to be having lunch with a high

admiral of the Ecuadorian Merchant Marines at the time of capture. The admiral then ordered the Ecuadorian Navy officers from the Galapagos to release the vessel from custody and inspection. Corruption within the Ecuadorian Naval Command therefore undermined the laws that govern the Galapagos Marine Reserve, a World Heritage Site.

Some countries grant flags of convenience (FOCs) to fishing boats, allowing them to avoid restrictions in their own countries, evade taxes, land catches in ports with weaker regulations and follow poor labor practices, including paying low wages, maintaining substandard living conditions aboard ships and abandoning crew in distant ports (Phelps Bondaroff et al. 2015; Gianni and Simpson 2005; Liddick 2014). The number of fishing vessels flying FOCs has increased drastically since the early 1990s (Gianni and Simpson 2005), and more than 1300 industrial fishing vessels now fly FOCs (Miller and Sumaila 2014). Several countries, including landlocked nations such as Mongolia and Bolivia, offer FOCs to fishing vessels (ITWF 2015). FOCs often provide cover for other illegal activities, such as human, drug, and arms trafficking (Phelps Bondaroff et al. 2015).

The provision of subsidies to the fishing sector is known to be rampant among maritime countries (Milazzo 1998), with a recent estimate putting the annual amount of subsidies advanced to the fishing sector globally at USD 35 billion with about 80 percent of this classified as capacity enhancing subsidies (Sumaila et al. 2013). A question that remains to be answered is: how many of these subsidies are provided after some form of corrupt interaction?

Fisheries Corruption at Sea

Fishing corruption on the water is rampant, in part due to the physical properties of the ocean. Fishers can engage in corrupt practices in varied ways, including through illegal, unreported and unregulated (IUU) fishing; slavery; discarding and high grading; smuggling and transshipments; mislabeling; and observer harassment.

IUU fishing includes: (1) vessels operating in violation of a fishery's laws, (2) fishing that is unreported (or misreported) to the relevant authorities, and (3) fishing that lacks regulatory oversight (Liddick 2014). Although the importance of dealing with IUU fishing has been recognized internationally – such as through adoption of the voluntary International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing (IPOA-IUU) in 2001 (FAO 2001), and the blacklisting of certain fishing vessels by regional fisheries management organizations (RFMOs) (CCAMLR 2015) – IUU fishing remains widespread globally (Sumaila et

al. 2006). It has been estimated that the global economic losses from IUU fishing could be around USD 10 to USD 23.5 billion annually (representing between 11 and 26 million tons) (Agnew et al. 2009; MRAG 2005; Pauly et al. 2002). Developing nations likely absorb the majority of these losses (Liddick 2011).

There are numerous examples of IUU fishing from around the world (Stiles et al. 2013). In Indonesia, for example, although the national government implemented a commercial trawling ban in 1980, local fishermen have noted that trawl activity has in fact increased since that time. Bribery and corruption of public officials is the likely enabler of this situation, and violent conflicts between local fishermen and commercial trawlers are a primary result (Liddick 2014). IUU fishing is often linked to high-value species and can lead to the collapse of a fishery, such as when organized crime syndicates in South Africa depleted abalone stocks and the fishery subsequently had to be closed in 2008 (Hauck and Sweijd 1999; Liddick 2014). In fact, IUU fishing is often linked to large-scale transnational crime (see Liddick 2014; Phelps Bondaroff et al. 2015).

Increasing international attention is being paid to the issue of slavery at sea, particularly within the Southeast Asian fishing industry (Urbina 2015; EJF 2014a; Phelps Bondaroff et al. 2015), but also aboard vessels in the UK, South Africa, and elsewhere (Earls 2014). In Thailand, increasing costs of fishing, decreasing fish stocks, and a shortage of Thai laborers willing to work in the difficult conditions aboard fishing vessels have driven the indentured servitude of men and boys from neighboring countries aboard Thai fishing vessels. Police collusion (which is itself corruption) and a lack of government intervention have been identified as major factors allowing for the continued trafficking and exploitation of these migrant workers (EJF 2014a; Urbina 2015), which enables the unregulated extraction of marine resources by illegally indentured laborers.

Discarding (which is an illegal act under many management regimes, for example, in the recent European Union) of catch often occurs aboard fishing vessels, and at high levels in certain fisheries. For example, 40–60 percent of catch is discarded by beam trawlers in the North Sea, and bottom trawlers in the Northeast Atlantic discard about 30 percent of their catch (Condie et al. 2014). Discarding can be driven by the incentive to high grade, which ensures that only the best fish are used in meeting an official quota (Wernerheim and Haedrich 2007). Fishers may also catch juvenile fish and, rather than release them, use them as bait under an incorrect species name (Nohlgren and Tomalin 2006).

Fish smuggling at sea helps IUU fishing to persist. For example, fishing vessels may remain at sea for extended periods of time and periodically transfer their catch to large refrigerated cargo ships, which are exempt from catch documentation and monitoring. These ‘mother-ships’ subsequently process seafood from various vessels, allowing legally and illegally caught fish to be mixed together, which makes traceability difficult. Fish laundering can also occur at aquaculture facilities such as bluefin tuna ranches, where illegally caught undersized fish can be held until they reach a legal marketable size (Telesetsky 2014; Phelps Bondaroff et al. 2015; Stiles et al. 2013).

Fishers and the seafood industry at large also frequently rename or mislabel their catch in order to attain higher values or avoid certain restrictions (Jacquet and Pauly 2008). For example, English fishers exceeding their cod quota have been known to label their cod as ‘ling’ to pass it through customs (Clover 2006), while Japanese and Russian fishers may record their more lucrative sockeye, chinook and coho salmon catch as the less valuable pink and chum salmon species (Liddick 2014).

Observers (some of whom may be colluding with fishers) that monitor fishing practices can help to combat illegal activities on fisheries vessels, yet they face risks. The number of attacks by fishing crews on US fisheries observers more than doubled between 2007 and 2011, although this figure may be significantly underestimated (PEER 2013). In the EU, fisheries observers have reported being regularly intimidated, offered bribes, and undermined by fishing crews (Watling 2012). Observers aboard fishing vessels that begin fishing illegally in West African waters have been forcibly stopped from contacting coastal authorities, and have in some cases been stranded in distant coastal cities while fishing crews fled authorities (EJF 2012).

Seafood Supply Chain Corruption

Corruption can also occur through the entire seafood chain of custody. Middlemen such as processors, distributors, and retailers can engage in corrupt practices, such as through unfair labor practices and the renaming and mislabeling of fish and fish products (Jacquet and Pauly 2008).

Shrimp processors, perhaps in part due to the scale of the industry, are among the most notorious for substandard labor conditions, ranging from illegally low wages and long hours to physical violence and sexual assault, to which some national governments have appeared to be privy (SAFE 2012; EJF 2003). In the Bangladeshi shrimp processing industry, where around 80 percent of workers are female, labor abuses are

widespread and the country's labor laws are rarely implemented (SAFE 2012; EJF 2014b). Migrant workers, particularly from Myanmar and sometimes children, make up a large portion of the workforce in shrimp processing plants in parts of Thailand (Terres des Hommes 2015; ILO 2013), and some of these workers may have been forced into work through debt bondage, non-payment of wages, and/or physical detention (Verité 2015; EJF 2013).

Illegal mislabeling and renaming of seafood, particularly by distributors and final seafood retailers, is also rampant (Jacquet and Pauly 2008). Less expensive species are commonly misrepresented as more expensive species. The main incentives for such species substitutions include high demand (but limited supply) of certain species, large opportunities for profit, and a lack of regulatory enforcement (Hanner et al. 2011). Wong and Hanner (2008) determined that 25 percent of various species purchased from New York City and Toronto restaurants were mislabeled, while Warner et al. (2012) found that 65 out of 119 seafood samples collected from grocery stores, restaurants, and sushi shops in Southern California were mislabeled according to federal guidelines.

Seafood that is marketed as 'sustainable' may also be mislabeled; one study found that retail labeling of Marine Stewardship Council (MSC) certified Chilean sea bass was inaccurate and sometimes included other species or Chilean sea bass caught by an uncertified fishery (Marko et al. 2011). In Dublin, Ireland, Miller and Mariani (2010) found that 25 percent of 'cod' fish was mislabeled, creating a false perception of market availability (and abundance) of a species that is actually highly depleted (Miller et al. 2012). Similarly, in the US, Marko et al. (2004) found that 60–94 percent of fish labeled as red snapper (a depleted reef fish species) was improperly labeled.

DISCUSSION: COMBATING FISHERIES CORRUPTION

The impacts of the various forms of fisheries corruption are numerous, varied, and widespread (Liddick 2014; Phelps Bondaroff et al. 2015). There are negative effects on fisheries science, because stock assessments become warped by gaps in knowledge regarding how much fish is actually removed from the oceans. Fisheries management and implementation are also affected by corruption, by pushing managers to approve total allowable catches that are higher than those recommended by scientists, and by incentivizing those who monitor fishing to deliberately allow fishers to catch more than their approved amounts. These regulatory failures subsequently allow for overfishing and depletion of fisheries

resources; this, in turn, negatively affects fishing communities economically, socially, and culturally, as well as weakening global food security.

Legitimate fishers face lowered market prices and decreased profitability when they compete with illegal fishers, and state revenues (or the potential for fair redistribution of economic benefits to society) are reduced when fishing and its value chain operate in a black market, or are illegally controlled by political or economic elites (Phelps Bondaroff et al. 2015). Overall, shortfalls in governance over public goods such as fisheries can affect national goals to relieve poverty and achieve national economic growth.

Different solutions have been proposed to deal with fisheries corruption. In societies where civil service compensation levels are relatively low, a significant part of a public employee's total compensation may be derived from engagement in outside activities, resulting in a significant rise in bureaucratic corruption (Pellegrini and Gerlagh 2008). An increase in wages for fisheries officers might therefore be a preferred solution to hiring more officers. In many instances, fines for offenders are too low compared to the potential benefits from illegal fishing activity, and should be increased (Stiles et al. 2013; Sumaila et al. 2006). Strengthening fisher participation in management is one way to improve compliance and management legitimacy at the local level (Raakjaer-Nielsen and Mathiesen 2003; Sethi and Somanthan 1996), as are measures that aim to create moral foundations for compliance, in particular through trust building, cooperation, and delegation of authority (Sundström 2013; Eggert and Lokina 2010).

Improved Monitoring, Control, and Surveillance (MCS) systems have been proposed in many regions, particularly in Africa, although MCS cannot overcome corrupt officials (Atta-Mills et al. 2004) or unfair access agreements (Kaczynski and Fluharty 2002). Similarly, while Vessel Monitoring Systems (VMS) can in some instances help to combat fisheries corruption at sea, it is possible for tracking data to be manipulated (Phelps Bondaroff et al. 2015). Overall, fishing legislation is irrelevant unless properly enforced (Gore et al. 2013). However, while improved enforcement may be recommended to help deal with illegal fishing instigated by 'fish pirates' or transnational organized crime, such measures may be inappropriate when dealing with high-level fisheries corruption at the state–corporate nexus (Standing 2015).

Given the precarious state of global fisheries, addressing barriers to creating more sustainable fisheries, such as corruption, must be made a high international priority and should be urgently addressed. Corruption undermines not only the present use of fisheries resources, but the prospects for future generations to enjoy fish as well.

REFERENCES

- Agnew, D.J., J. Pearce, P. Ganapathiraju, T. Peatman, R. Watson, J.R. Beddington and T.J. Pitcher 2009. 'Estimating the worldwide extent of illegal fishing', *PLoS One*, 4(2), e4570, doi:10.1371/journal.pone.0004570.
- Atta-Mills, J., J. Alder and U.R. Sumaila 2004. 'The decline of a regional fishing nation: the case of Ghana and West Africa', *Natural Resources Forum*, 28(1), 13–21.
- Bardhan, P. 2006. 'The economist's approach to the problem of corruption', *World Development*, 34(2), 341–348.
- Clover, C. 2006. *The End of the Line*. The New Press. New York.
- Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). 2015. 'Non-contracting party IUU vessel list', www.ccamlr.org/en/compliance/non-contracting-party-iuu-vessel-list (accessed August 25, 2015).
- Condie, H.M., A. Grant and T.L. Catchpole 2014. 'Incentivising selective fishing under a policy to ban discards: lessons from European and global fisheries', *Marine Policy*, 45, 287–292.
- Dippel, C. 2015. 'Foreign aid and voting in international organizations: evidence from the IWC', Anderson School of Management – University of California Los Angeles (unpublished manuscript), www.anderson.ucla.edu/faculty/christian.dippel/IWC_paper.Pdf (accessed May 6, 2015).
- Earls, E. 2014. 'Sustainability, seafood ... and slavery', *Caterer and Hotelkeeper*, 203(4825), 32–34.
- Eggert, H. and R. Lokina 2010. 'Regulatory compliance in Lake Victoria fisheries', *Environment and Development Economics*, 15, 197–217.
- Eigen, P. and C. Eigen-Zucchi 2003. 'Corruption and public goods' in K. Inge, P. Conceicao, K. Le Goulven and R.U. Mendoza (eds) *Providing Global Public Goods: Managing Globalization*. Oxford University Press. New York, pp. 576–646.
- Environmental Justice Foundation (EJF). 2003. 'Smash and grab: conflict, corruption and human rights abuses in the shrimp farming industry', EJF, http://ejfoundation.org/sites/default/files/public/smash_and_grab.pdf (accessed August 27, 2015).
- Environmental Justice Foundation (EJF). 2012. 'Pirate fishing exposed: the fight against illegal fishing in West Africa and the EU', EJF, <http://ejfoundation.org/sites/default/files/public/Pirate%20Fishing%20Exposed.pdf> (accessed August 26, 2015).
- Environmental Justice Foundation (EJF). 2013. 'The hidden cost: human rights abuses in Thailand's shrimp industry', http://ejfoundation.org/sites/default/files/public/shrimp_report_v44_lower_resolution.pdf (accessed August 26, 2015).
- Environmental Justice Foundation (EJF). 2014a. 'Slavery at sea: the continued plight of trafficked migrants in Thailand's fishing industry', EJF, http://ejfoundation.org/sites/default/files/public/EJF_Slavery-at-Sea_report_2014_web-ok.pdf (accessed August 25, 2015).

- Environmental Justice Foundation (EJF). 2014b. 'Impossibly cheap: abuse and injustice in Bangladesh's shrimp industry', http://ejfoundation.org/sites/default/files/public/Impossibly_Cheap_Web.pdf (accessed August 26, 2015).
- Fabinyi, M. 2016. 'Producing for Chinese luxury seafood value chains: different outcomes for producers in the Philippines and North America', *Marine Policy*, 63, 184–190.
- Food and Agriculture Organization of the United Nations (FAO). 2001. 'International plan of action to prevent, deter, and eliminate illegal, unreported and unregulated fishing', FAO. Rome, www.fao.org/docrep/003/y1224e/y1224e00.htm (accessed July 27, 2015).
- Food and Agriculture Organization of the United Nations (FAO). 2014. 'The state of world fisheries and aquaculture: opportunities and challenges', FAO. Rome.
- Gianni, M. and W. Simpson 2005. 'Changing nature of high seas fishing: how flags of convenience provide cover for illegal, unreported, and unregulated fishing', Australian Department of Agriculture, Fisheries, and Forestry, International Transport Workers' Federation, and WWF International.
- Gordon, H.S. 1954. 'The economic theory of a common-property resource: the fishery', *The Journal of Political Economy*, 62(2), 124–142.
- Gore, M.L., J. Ratsimbazafy and M.L. Lute 2013. 'Rethinking corruption in conservation crime: insights from Madagascar', *Conservation Letters*, 6(6), 430–438.
- Hanich, Q. and M. Tsamenyi 2009. 'Managing fisheries and corruption in the Pacific Islands region', *Marine Policy*, 33(2), 386–392.
- Hanner, R., S. Becker, N.V. Ivanova and D. Steinke 2011. 'FISH-BOL and seafood identification: geographically dispersed case studies reveal systemic market substitution across Canada', *Mitochondrial DNA*, 22(S1), 106–122.
- Hardin, G. 1968. 'The tragedy of the commons', *Science*, 162(3859), 1243–1248.
- Hauck, M. and M. Kruse 2006. 'Fisheries compliance in South Africa: a decade of challenges and reform (1994–2004)', *Marine Policy*, 30(1), 74–83.
- Hauck, M. and N.A. Sweijd 1999. 'A case study of abalone poaching in South Africa and its impact on fisheries management', *ICES Journal of Marine Sciences*, 56, 1024–1032.
- Havice, E. 2010. 'The structure of tuna access agreements in the Western and Central Pacific Ocean: lessons for Vessel Day Scheme planning', *Marine Policy*, 34(5), 979–987.
- Hickey, F.R. 2006. 'Traditional marine resource management in Vanuatu: acknowledging, supporting, and strengthening indigenous management systems', *SPC Traditional Marine Resource Management and Knowledge Information Bulletin*, 20, 11–23.
- Ilnyckyj, M. 2007. 'The legality and sustainability of European Union fisheries policy in West Africa', *MIT International Review*, 1(1), 32–41.
- International Labour Organization (ILO). 2013. 'Baseline surveys on child labour in selected areas in Thailand – summary of findings', www.ilo.org/wcmsp5/groups/public/—asia/—ro-bangkok/documents/publication/wcms_222568.pdf (accessed August 26, 2015).

- International Transport Workers' Federation (ITWF). 2015. 'Flags of convenience', www.itfglobal.org/en/transport-sectors/seafarers/in-focus/flags-of-convenience-campaign (accessed August 25, 2015).
- Jacquet, J.L. and D. Pauly 2008. 'Trade secrets: renaming and mislabeling of seafood', *Marine Policy*, 32(3), 309–318.
- Kaczynski, V.M. and D.L. Fluharty 2002. 'European policies in West Africa: who benefits from fisheries agreements?', *Marine Policy*, 26(2), 75–93.
- Kolstad, I. and T. Søreide 2009. 'Corruption in natural resource management: implications for policy makers', *Resources Policy*, 34(4), 214–226.
- Liddick, D. 2011. *Crimes Against Nature: Illegal Industries and the Global Environment*. Praeger. Santa Barbara.
- Liddick, D. 2014. 'The dimensions of a transnational crime problem: the case of IUU fishing', *Trends in Organized Crime*, 17(4), 290–312.
- Marine Resources Assessment Group (MRAG). 2005. 'Review of impacts of illegal, unreported and unregulated fishing on developing countries', <http://transparentsea.co/images/5/58/Illegal-fishing-mrag-report.pdf> (accessed August 25, 2015).
- Marko, P.B., H.A. Nance and K.D. Guynn 2011. 'Genetic detection of mislabeled fish from a certified sustainable fishery', *Current Biology*, 21(16), R621–R622.
- Marko, P.B., S.C. Lee, A.M. Rice, J.M. Gramling, T.M. Fitzhenry, J.S. McAlistar, G.R. Harper and A.L. Moran 2004. 'Mislabelling of a depleted reef fish', *Nature*, 430, 309–310.
- Milazzo, M. 1998. 'Subsidies in world fisheries: a re-examination'. World Bank Technical Papers No. 406 Fisheries Series. World Bank. Washington, DC.
- Miller, A.R. and N. Dolšák 2007. 'Issue linkages in international environmental policy: the International Whaling Commission and Japanese development aid', *Global Environmental Politics*, 7(1), 69–96.
- Miller, D. and U.R. Sumaila 2014. 'Flag use behavior and IUU activity within the international fishing fleet: refining definitions and identifying areas of concern', *Marine Policy*, 44, 204–211.
- Miller, D.D. and S. Mariani 2010. 'Smoke, mirrors, and mislabeled cod: poor transparency in the European seafood industry', *Frontiers in Ecology and the Environment*, 8, 517–521.
- Miller, D.D., M. Clarke and S. Mariani 2012. 'Mismatch between fish landings and market trends: a Western European case study', *Fisheries Research*, vol. 121–122, 104–114.
- Nohlgren, S. and T. Tomalin 2006. 'The grouper catch', *Tampa Bay Times* August 6, www.sptimes.com/2006/08/06/Tampabay/The_grouper_catch.shtml (accessed August 27, 2015).
- Pauly, D., V. Christensen, S. Guénette, T.J. Pitcher, U.R. Sumaila, C.J. Walters, R. Watson and D. Zeller 2002. 'Towards sustainability in world fisheries', *Nature*, 418(6898), 689–695.
- Pellegrini, L. and R. Gerlagh 2008. 'Causes of corruption: a survey of cross-country analyses and extended results', *Economics of Governance*, 9(3), 245–263.
- Phelps Bondaroff, T.N., T. Reitano and W. van der Werf 2015. 'The illegal fishing and organized crime nexus: illegal fishing as transnational organized

- crime', The Global Initiative Against Transnational Organized Crime, Geneva, www.globalinitiative.net/illegal-fishing-the-overlooked-organized-environmental-crime (accessed August 15, 2015).
- Protecting Employees who Protect our Environment (PEER). 2013. 'High seas harassment of fisheries observers more than doubles', www.peer.org/news/news-releases/2013/05/16/high-seas-harassment-of-fisheries-observers-more-than-doubles (accessed August 26, 2015).
- Raakjaer-Nielsen, J. and C. Mathiesen 2003. 'Important factors influencing rule compliance in fisheries lessons in Denmark', *Marine Policy*, 27(5), 409–416.
- Robbins, P. 2000. 'The rotten institution: corruption in natural resource management', *Political Geography*, 19(4), 423–443.
- Sethi, R. and E. Somanthan 1996. 'The evolution of social norms in common property resource use', *The American Economic Review*, 86(4), 766–788.
- Shleifer, A. and R.W. Vishny 1993. 'Corruption', *Quarterly Journal of Economics*, 108(3), 599–617.
- Solidarity Center and Social Activities for Environment (SAFE). 2012. 'The plight of shrimp-processing workers of Southwestern Bangladesh', SAFE, www.solidaritycenter.org/wp-content/uploads/2014/11/pubs_bangladesh_shrimp_report2012.pdf (accessed August 26, 2015).
- Standing, A. 2008. *Corruption and industrial fishing in Africa*, U4 Issue, no. 7, U4 Anti-Corruption Resource Centre. Chr. Michelsen Institute. Bergen.
- Standing, A. 2015. *Corruption and state-corporate crime in fisheries*, U4 Issue, no.15, U4 Anti-Corruption Resource Centre. Chr. Michelsen Institute. Bergen.
- Stiles, M.L., A. Kagan, E. Shaftel and B. Lowell 2013. *Stolen Seafood: The Impact of Pirate Fishing on our Oceans*. Oceana. Washington, DC.
- Sumaila, U.R., J. Alder and H. Keith 2006. 'Global scope and economics of illegal fishing', *Marine Policy*, 30(6), 696–703.
- Sumaila, U.R., V. Lam, F. Le Manach, W. Swartz and D. Pauly 2013. *Global Fisheries Subsidies*. Note, Directorate-General for Internal Policies Policy Department B: Structural and Cohesion Policies, Fisheries. European Union. Brussels.
- Sundström, A. 2012. 'Corruption and regulatory compliance: experimental findings from South African small-scale fisheries', *Marine Policy*, 36(6), 1255–1264.
- Sundström, A. 2013. 'Corruption in the commons: why bribery hampers enforcement of environmental regulations in South African fisheries', *International Journal of the Commons*, 7(2), 454–472.
- Sundström, A. 2014. 'Covenantants with broken swords: corruption and law enforcement of the commons', *Global Environmental Change*, 31, 253–262.
- Telesetsky, A. 2014. 'Laundering fish in the global undercurrents: illegal, unreported, and unregulated fishing and transnational organized crime', *Ecology Law Quarterly*, 41(4), 939–998.
- Terres des Hommes. 2015. 'Child labour report 2015 – migrant child labour in the Thai shrimp industry', Terres des Hommes, www.terredeshommes.org/wp-content/uploads/2015/06/shrimp-study-eng-3MB.pdf (accessed August 26, 2015).
- Treisman, D. 2000. 'The causes of corruption: a cross-national study', *Journal of Public Economics*, 76(3), 399–457.

- Urbina, I. 2015. 'Sea slaves: the human misery that feeds pets and livestock', *The New York Times* February 27, www.nytimes.com/2015/07/27/world/outlaw-ocean-thailand-fishing-sea-slaves-pets.html?_r=0 (accessed August 25, 2015).
- Verité. 2015. 'Shrimp', www.verite.org/Commodities/Shrimp (accessed August 26, 2015).
- Warner, K., W. Timme, B. Lowell and M. Hirshfield 2012. 'Widespread seafood fraud found in LA', Oceana, http://oceana.org/sites/default/files/LA_Seafood_Testing_Report_FINAL.pdf (accessed August 27, 2015).
- Watling, J. 2012. 'Fishing observers "intimidated and bribed by EU crews"', *The Guardian* May 18, www.theguardian.com/environment/2012/may/18/fishing-inspectors-intimidated-bribed-crews (accessed August 26, 2015).
- Watson, R. and D. Pauly 2001. 'Systematic distortions in world fisheries catch trends', *Nature*, 414, 534–536.
- Wernerheim, M. and R.L. Haedrich 2007. 'A simple empirical model of data fouling by high-grading in capture fisheries', *Land Economics*, 83(1), 74–85.
- Wong, E.H.K. and R.H. Hanner 2008. 'DNA barcoding detects market substitution in North American seafood', *Food Research International*, 41, 828–837.

8. Mapping the state's Janus face: green economy and the 'green resource curse' in Kenya's highland forests

Connor Joseph Cavanagh

Five upland water catchment areas provide an estimated 75 per cent of renewable surface water resources in Kenya (UNEP 2012: 23). These include Mount Elgon, the Cherangani Hills, the Mau Forest complex, Mount Kenya, and the Aberdares range. Collectively, these five 'water towers' support the livelihoods of millions of small-scale farmers and pastoralists, as well as a growing number of commercial agribusinesses, freshwater fisheries, ecotourism ventures, and hydroelectric power stations. In turn, the maintenance and expansion of these sectors is crucial for the realization of Kenya's ambitious new development plan, Vision 2030, which seeks to achieve an annual growth rate of 10 per cent, largely via the development of the energy, agriculture, and tourism sectors (Government of Kenya [GoK] 2007). From the perspective of multilateral and bilateral donors, watershed conservation is also vital for the emergence of a 'green economy' in Kenya – one based on 'cleaner' energy sources, ecotourism, and 'climate-smart' agricultural practices – which is expected to constitute the foundation of a related 'low carbon, climate resilient development' pathway for the country (KFS and UNEP 2012; GoK 2013: 25).

On this basis, state agencies such as the Kenya Forest Service (KFS) and Kenya Wildlife Service (KWS) have sought to (re)consolidate their control over the country's forest estate. Ostensibly as an unintended consequence, these conservation efforts have precipitated the frequently violent eviction and further marginalization of traditionally forest-dwelling communities such as the Sengwer, Aweer, and Ogiek, who are frequently now defined as environmentally destructive 'encroachers' or 'squatters' on state protected areas (Tiampati 2014, 2015; Wily 2015).¹ Conversely, however, interviews, investigative reports, and empirical

observations suggest that certain elements *within* the state are simultaneously colluding to illegally deforest portions of these same protected areas, in some cases allocating newly converted land to political supporters in Kenya's larger ethnic communities (Ndung'u Commission 2004; Klopp 2012). Though widely perceived as one of sub-Saharan Africa's most dynamic and promising economies, and having recently achieved middle-income status (World Bank 2014), it thus remains to be seen whether Kenya can realize the lofty ambitions of both Vision 2030 and a thriving green economy amidst ongoing governance challenges.²

Drawing upon ongoing fieldwork on the illegal trade in forest products both in Kenya and the broader eastern African region (Cavanagh 2012; Cavanagh et al. 2015), this chapter traces the empirical contours of the state's 'Janus face' in this regard. I point to a number of emerging tensions and contradictions within attempts to implement the 'green economy' amidst conditions of widespread collusive corruption and patronage-based politics. In doing so, I contribute to a small but growing literature on what some now term the 'green resource curse' or 'ecosystem service curse' (Bringezu and Bleischwitz 2011; Kronenberg and Hubacek 2013; Vandever 2013). In general, this literature highlights the ways in which increased flows of payments, aid, and credit for environmental management threaten to replicate many of the problems that are well-established in relation to windfall rents from natural resource exports and/or more conventional forms of donor support (for example, Collier 2000). In addition, however, I illuminate the ways in which the 'greening' of the resource curse portends not only the illicit appropriation of finances and the dysfunctional forms of governance that such misappropriations support. Rather, it may also entail the clandestine destruction of forest resources that are formally conserved and included in emerging 'natural capital accounting' systems (for example, UNEP 2012), as well as the violent dispossession of certain communities that have historically stewarded these ecosystems.

THE GREEN ECONOMY AND KENYA'S 'WATER TOWERS'

Over the last decade, a number of bilateral and multilateral donors have provided substantial resources for enhancing the conservation of both Kenya's upland watersheds and other forested protected areas. Selected initiatives include the World Bank's USD 78 million 'Natural Resource Management Project', as well as related programmes financed by the European Union (EU) (USD 42 million, see Otieno 2014; EU 2015) and

Global Environment Facility (GEF) (USD 15.6 million, see GEF 2008). The governments of Finland, Sweden, the United States, Japan, Australia, and Norway have also recently provided substantial bilateral grants for similar purposes at either the national, regional, or protected area scale, collectively totalling nearly USD 100 million (for example, Government of Finland 2015). Combined, these and related initiatives have substantially raised the capacities and capabilities of Kenyan conservation agencies, not least via the provision of new vehicles, equipment, weapons, technical assistance, and staff, as well as by formally reinforcing both national and international support for the conservation agenda.

In addition to these more conventional programmes for supporting forest governance, readiness processes associated with UN and World Bank Reducing Emissions from Deforestation and Forest Degradation (REDD+) initiatives signal the ways in which international payments for forest carbon sequestration may substantially increase the scale of finances available for conservation over the coming decade. Kenya is currently a partner country in both the UN-REDD programme and the World Bank's Forest Carbon Partnership Facility (FCPF), and has received significant finances to facilitate its participation in associated readiness processes. Given that all of Kenya's upland protected areas have suffered 'encroachment' and 'degradation' to varying extents over the past several decades (Kenya Forests Working Group (KFWG) 2006; UNEP 2012), the government potentially stands to benefit significantly from these mechanisms. Current readiness activities thus primarily involve the formulation of an accounting system for measuring and monitoring these stocks in the national forest estate, which will be necessary for quantifying both the carbon sequestered and revenues due as a result of reforestation and rehabilitation activities (for example, EU 2015).

LEGACIES OF VIOLENCE AND COLLUSIVE CORRUPTION

For many in the international development community, such processes are inherently laudable, signifying both the emergence of a potentially lucrative 'green economy' and an end to decades of mismanagement in Kenya's forests (for example, KFS 2007; KFS and UNEP 2012; UNEP 2012). Yet others perceive these events with significant trepidation, anticipating what they suspect to be their predictably deleterious consequences for indigenous forest communities in particular (for example, Forest Peoples Programme 2014). A growing number of studies and civil

society reports from Kenya and East Africa suggest that a necessary precondition for such activities will be the removal of communities who reside within protected areas, often in the context of unclear tenure, contradictory rights claims, and contested reserve boundaries (Cavanagh and Benjaminsen 2014; Cavanagh et al. 2015; Chomba et al. 2016; Forest Dwelling Communities 2014; Tiampati 2014, 2015; Wily 2015).

While attempts at eviction characterized the colonial imposition and management of Kenya's protected area estate (see Colonial Office 1934), such removals were not always achieved in practice, with numerous communities managing to remain within demarcated forests (for example, Anderson 1987). After independence, this situation was complicated by widespread collusive corruption between state officials and organized criminal networks in the forestry sector (Njeru 2010; Mugo et al. 2010). These activities entailed the illegal and irregular acquisition of public forests (Ndung'u Commission 2004), as well as the redistribution of the resulting land and resources to maintain patronage-based networks of political support (Klopp and Sang 2011; Klopp 2012). The contemporary state officially maintains that processes of democratization and liberalization are putting an end to such practices, and correcting for the widespread prevalence of corruption in conservation institutions associated with the early post-independence era (KFS 2007; UN-REDD 2013). Indeed, such was the electoral platform of former President Mwai Kibaki, whose first government almost immediately dismissed more than 800 employees of the former Forest Department following allegations of corruption and mismanagement (BBC 2003).

In contrast, many critics claim that democratization has actually *exacerbated* the integration of forest resources into patronage networks (Klopp 2012). According to this alternative perspective, democratization places increased demands on political parties to attain resources for distribution to supporters, and especially so in the lead-up to national elections. The Ndung'u Commission's (2004) *Inquiry into the Illegal/Irregular Allocation of Public Land* substantiates this claim by documenting clear spikes in land allocations – including those resulting from the excision of public forests – immediately before elections in 1992, 1997, and 2002. Consequently, it is decidedly understandable that critical activists and academics continue to warn of ongoing collusive corruption in the forestry sector, even if recent institutional reforms may have tempered the worst excesses of land and forest 'grabbing' prevalent in the 1980s and 1990s (Standing and Gachanja 2014).

INDIGENOUS RESPONSES

As a result of these processes, Kenya's forest communities struggle to maintain their interrelated livelihoods and identities in a context of recentralized state control over protected areas, illegal acquisitions of forest resources, and patronage-based systems of political support backed by collusive corruption. As one respondent from the Mau Forest Ogiek community put it:

The illegal logging happens with collusion between the loggers and KFS forest guards. Just a few weeks ago, 30 acres [of protected forest] were cleared near Nessuit. This was supported by the deputy commissioner, local MCAs [Members of County Assembly] and KFS officers. But KFS and these people do not have the authority to do this. This is indigenous forest. Only the National Land Commission and Parliament can do that under the new constitution [adopted in 2010]. And so KFS guards get the timber and charcoal, somebody's supporter gets the land to farm, and we [the Ogiek] are told that we must leave because we are destroying the forest [...] The politicians are looking for a scapegoat because they cannot admit it is they who are driving the problem. (Author interview, 27 March 2015)

Moreover, as a Sengwer elder alleged during a focus group meeting outside Kapolet Forest Reserve in the Cherangani Hills:

We have seen the KFS here all the time taking indigenous timber for themselves. Sometimes they do it directly with power saws, sometimes they pay other communities to do it for them. We always see logs moving here and there in KFS vehicles, and sometimes we see exchanges between KFS and the police [...] The logs are taken for sale in Eldoret and other trading centres, while the community here gets nothing but blame for the deforestation. (Reported to the author during a focus group discussion, 13 May 2015)

Admittedly, it is difficult to establish the veracity of these and similar reports, given that current forestry law and policy in Kenya (for example, the 2005 Forests Act) allows KFS to both engage in sustainable timber harvesting and to seize timber that it suspects of being illegally harvested. Combined with ongoing KFS refusals to provide protected area-specific data on agency revenues (for example, Standing and Gachanja 2014: 33), it is virtually impossible to ascertain whether specific seizures of timber and other forest products were undertaken on behalf of the state or for the benefit of corrupt individuals. Independent parties are not able to triangulate or critically analyse these revenues in the absence of such financial transparency.

Despite such difficulties, the above allegations corroborate a number of similar reports by investigative journalists, activists, and researchers who have documented alleged collusion between the KFS, politicians, and security forces to extract and sell timber and charcoal sourced from protected areas for private gain (for example, Burnham and Gronewold 2010; Mugambi 2011; Njeru 2010; Klopp 2012; Njeru 2012; Thairu 2012; Standing and Gachanja 2014; Musyoka 2015; Nyambura 2015). For instance, Burnham and Gronewold (2010) and Njeru (2012) report allegations of clandestine 'syndicates' of KFS officers, police, and military personnel involved in illegal logging activities within the Mau Forest complex, involving transfers of illegally obtained forest products between KFS and police not unlike those described above. Comparable reports continue to emerge from several other forests in the country, including a series of illegal timber trading incidents in Kiringya County resulting in charges laid against the national KFS director and his local zonal manager (Mugambi 2011), as well as similar allegations against senior KWS officers in the Shimba Hills National Reserve, Kwale County (Musyoka 2015). Likewise, Nyambura (2015) has documented cases of corrupt KFS officers allocating forest land for logging and subsequent cultivation by local farmers in exchange for illegal payments around Dundori Forest in Nakuru County.

Understandably, then, forest communities generally see attempts to evict them not only as a form of rent capture – in which their removal allows state agencies to accumulate donor flows of aid and credit – but also as a strategy both of forced assimilation and of eliminating witnesses to the illegal activities that appear to be informally pursued by state conservation personnel.³ Unlike nearby – and much more populous – communities of agriculturalists and agro-pastoralists at the forest margins, remaining forest-dwelling communities generally do not practise agriculture, and thus have few incentives to either clear local forest cover themselves or to collude with local authorities to do so illegally. In fact, these groups retain customary resource management institutions that entail substantial punishments for those who would do so, ranging in severity from ritualized humiliation, to heavy fines and lashing, to (most severely) ostracism or expulsion from one's clan and community altogether (for example, Forest Peoples Programme 2013; Sengwer of Embobut Governing Council 2015). In other words, complicity in illegal logging would entail significant exposure to customary law, even in the absence of formal state prosecution. Likewise, removal from forest territories would entail not only lost access to land and resources, but potentially also assimilation into a mode of livelihood perceived to be disadvantageous or otherwise culturally unacceptable.

Consequently, it is the perceived legitimacy of these customary legal systems that continue to provide Kenya's forest communities with hope, both for themselves and for the effective conservation of their territories. Legal proceedings to challenge violent evictions are currently underway at both Kenyan and international courts (such as the African Court of Human and Peoples' Rights in Arusha), as well as via the National Land Commission's Taskforce on Historical Land Injustices. Building upon solidarities between them, the Ogiek, Sengwer, Yaaku, and Aweer have also made a joint submission to the latter taskforce, hoping to draw upon the 2010 Constitution's special provisions for forest communities to obtain collective 'community land' tenure to their customary territories inside protected forests (Forest Dwelling Communities 2014). Moreover, although recurring attempts at eviction, influxes of agriculturalist or agro-pastoralist 'settlers', and illegal logging activities have certainly challenged the feasibility of customary management systems, the Sengwer of Embobut Forest and the Ogiek of Mount Elgon in particular have refused to vacate their territories, instead pursuing their approaches to clan-based forest and pasture management as a demonstration of a radically alternative form of conservation in the region. Rather than waiting for some institutional reform to address the green resource curse 'from above', in other words, Kenya's forest communities are actively engaged in what we might call the *practice* of political ecology, seeking to enact alternative forms of conservation by asserting their collective rights under Kenya's new constitution, and rightly perceiving themselves as amongst the most important catalysts for social and environmental justice within the country's forest estate.

CONCLUSION

In many ways, the future of sustainable development in Kenya is inextricably linked with the effective governance of its five upland forests or 'water towers'. Despite a virtual consensus that these areas must be conserved, the question of precisely *how* their conservation should be governed has been the subject of a longstanding debate. To date, multilateral and bilateral donors have generally elected to support a 'fortress' model of exclusionary state conservation in these areas, which – in combination with new incentives arising from UN and World Bank REDD+ readiness activities – seems to have intensified efforts to forcefully evict traditionally forest-dwelling communities.

As I have sought to demonstrate in this chapter, however, donor efforts to support the emergence of a 'green economy' in Kenya have so far

tended to neglect the greatest threats to their own sustainability and environmentally just implementation. Indeed, without addressing the twin challenges of corruption within state agencies and the imbrication of such corruption within broader systems of collusive corruption and patronage politics, these influxes of donor aid and credit threaten to support the emergence not of a 'green economy', but rather of a 'green resource curse' in the country's forest estate. If unchecked, such a curse may result in a triple loss: of donor resources, of forests and the crucial ecosystem services they provide, and of indigenous forms of conservation and sustainable resource management.

Yet, the struggles of Kenya's forest communities suggest that the antidote to a green resource curse in the country does not simply or exclusively lie in programmes for supporting good governance and the rule of law. Given the relative ease of informally circumventing such measures in practice, these initiatives will be successful only if coupled with locally rooted movements for environmental justice. In other words, here, we see the ways in which state-sponsored evictions of forest communities – who are often the primary witnesses to processes of illegal deforestation – perhaps counter-intuitively offer us a glimmer of hope. Indeed, rather than omnipotence, the zeal with which the state currently pursues these evictions evinces a certain vulnerability; one that is emergent from the ways in which such acts of witnessing may translate into demands for accountability and multi-scalar alliances organized around facilitating them. Combined with ongoing institutional reforms and more conventional anti-corruption measures, therein lays the true seed of environmental justice in Kenya's upland forests.

NOTES

1. The concept of indigeneity is itself highly contested both in Kenya and in sub-Saharan Africa more broadly. The position of the post-independence Kenyan state has long been that all Kenyans of African descent are indigenous to Kenya. However, certain groups in the country have pressed for recognition as especially 'indigenous' peoples, usually on the grounds of their ongoing attachment to traditional – and frequently pastoralist or hunter-gatherer – lifestyles and livelihoods. These claims are now in part enshrined within the 2010 Constitution, which makes special provision for the rights of certain 'marginalized communities', including those who have 'retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy' (GoK 2010: 163). While some analysts have interpreted the emergence of Kenya's apparently 'new indigenes' under a largely instrumentalist rubric (Lynch 2011), I contextualize these phenomena in relation to both rampant collusive corruption and the marginalization of historically forest-dwelling peoples.
2. Though this is of course a rough measure, Kenya ranks at 145th place out of 174 countries in Transparency International's 2014 *Corruption Perceptions Index* (Transparency International 2015) compared to 129th place in 2004.

3. Focus group discussion with Sengwer Elders, Embobut Forest, Elgeyo-Marakwet County, 10 August 2015.

REFERENCES

- Anderson, D. 1987. 'Managing the forest: the conservation history of Lembus, Kenya, 1904–63'. In: D. Anderson and R. Grove (eds), *Conservation in Africa: People, Policies, and Practice*: 249–268. Cambridge University Press. Cambridge.
- Bringezu, S. and R. Bleischwitz 2011. 'Preventing a resource curse fuelled by the green economy'. In: Transparency International, *Global Corruption Report: Climate Change*: 197–206. Earthscan. London.
- British Broadcasting Corporation (BBC). 2003. 'Kenya suspends forestry staff'. *BBC News* (25 October 2003), <http://news.bbc.co.uk/2/hi/africa/3214073.stm> (accessed 11 May 2015).
- Burnham, M. and N. Gronewold 2010. 'Corruption, mismanagement strangle vital Kenyan watershed'. *New York Times* (17 May), www.nytimes.com/gwire/2010/05/17/17greenwire-corruption-mismanagement-strangle-vital-kenyan-21141.html?pagewanted=1 (accessed 11 May 2015).
- Cavanagh, C. and T.A. Benjaminsen 2014. 'Virtual nature, violent accumulation: the "spectacular failure" of carbon offsetting at a Ugandan National Park'. *Geoforum*, 56, 55–65.
- Cavanagh, C.J. 2012. *Unready for REDD+? Lessons from corruption in Ugandan conservation areas*. U4 Brief 2012 (3). U4 Anti-Corruption Resource Centre. Chr. Michelsen Institute. Bergen.
- Cavanagh, C.J., P. Vedeld and L.T. Traedal 2015. 'Securitizing REDD+? Problematising the emerging illegal timber trade and forest carbon interface in East Africa'. *Geoforum*, 60, 72–82.
- Chomba, S., J. Kariuki, J.F. Lund and F. Sinclair 2016. 'Roots of inequity: how the implementation of REDD+ reinforces past injustices'. *Land Use Policy*, 50, 202–213.
- Collier, P. 2000. *Economic Causes of Civil Conflict and their Implications for Policy*. World Bank. Washington, DC.
- Colonial Office. 1934. *Report of the Kenya Land Commission (including evidence and memoranda), 1934*. Government Printer. London.
- European Union (EU). 2015. 'Innovative approaches towards rehabilitating the Mau ecosystem', http://eeas.europa.eu/delegations/kenya/projects/list_of_projects/21846_en.htm (accessed 17 May 2015).
- Forest Dwelling Communities. 2014. *Forest Dwelling Communities' Position Statement: Securing our rights, our lands, and our forests*. Submission to the Taskforce on Historical Land Injustices, National Land Commission (11 September 2014). Unpublished (copy with author).
- Forest Peoples Programme (FPP). 2013. 'Chepkitale Ogiek community document their customary bylaws for the first time in order to ensure the continued conservation of their ancestral lands and natural resources', www.forestpeoples.org/topics/customary-sustainable-use/news/2013/11/chepkitale-ogiek-community-document-their-customary-by (accessed 27 January 2016).

- Forest Peoples Programme (FPP). 2014. 'Kenya government's forced evictions threaten cultural survival of the Sengwer', www.forestpeoples.org/topics/rights-land-natural-resources/news/2014/02/kenyan-government-s-forced-evictions-threaten-cult (accessed 21 May 2015).
- Global Environment Facility (GEF). 2008. 'Project identification document – strengthening the protected area network within the Eastern Montane Forest hotspot of Kenya'. GEF. Washington, DC, www.thegef.org/gef/project_detail?projID=3693 (accessed 25 August 2015).
- Government of Finland. 2015. 'Miti Mingi Maisha Bora (MMMB) – Support to the Forest Sector Reform in Kenya', www.finland.or.ke/public/default.aspx?nodeid=46392&contentlan=2&culture=en-US (accessed 21 May 2015).
- Government of Kenya (GoK). 2007. *Kenya Vision 2030*. Government Printer. Nairobi.
- Government of Kenya (GoK). 2010. *The Constitution of Kenya, 2010*. National Council for Law Reporting. Nairobi.
- Government of Kenya (GoK). 2013. *National Climate Change Action Plan, 2013–2017*. Ministry of Environment and Natural Resources. Nairobi.
- Kenya Forest Service (KFS). 2007. *Forest Law Enforcement and Governance in Kenya*. KFS. Nairobi.
- Kenya Forest Service (KFS) and UNEP. 2012. *Report of the High-Level National Dialogue on Kenya Water Towers, Forests, and Green Economy*. Kenya Forest Service. Nairobi.
- Kenya Forests Working Group (KFWG). 2006. *Changes in Forest Cover in Kenya's Five 'Water Towers' 2003–2005*. KFWG. Nairobi.
- Klopp, J.M. 2012. 'Deforestation and democratization: patronage, politics and forests in Kenya'. *Journal of Eastern African Studies*, 6(2), 351–370.
- Klopp, J.M. and J.K. Sang 2011. 'Maps, power, and the destruction of the Mau Forest in Kenya'. *Georgetown Journal of International Affairs*, 12(1), 125–134.
- Kronenberg, J. and K. Hubacek 2013. 'Could payments for ecosystem services create an "ecosystem service curse"?' *Ecology and Society*, 18(1), 10.
- Lynch, G. 2011. 'Kenya's new indigenes: negotiating local identities in a global context'. *Nations and Nationalism*, 17(1), 148–167.
- Mugambi, J. 2011. 'Kenya: forestry officers – forest director denies logging charge'. *The Star* (10 October), <http://allafrica.com/stories/201110101547.html> (accessed 27 May 2015).
- Mugo, E., C. Nyandiga and M. Gachanja 2010. *Development of Forestry in Kenya (1900–2007): challenges and lessons learnt*. Kenya Forests Working Group. Nairobi.
- Musyoka, A. 2015. 'Kenya: Shimba Hills KWS officers accused of illegal logging'. *The Star* (7 May), <http://allafrica.com/stories/201505070532.html> (accessed 27 May 2015).
- Ndung'u Commission. 2004. *Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land*. Government Printer. Nairobi.
- Njeru, G. 2012. 'Corrupt officials aid destruction of Kenya's Mau forest'. *Reuters AlertNet* (1 November), www.trust.org/item/?map=corrupt-officials-aid-destruction-of-kenyas-mau-forest (accessed 11 May 2015).

- Njeru, J. 2010. "“Defying” democratization and environmental protection in Kenya: the case of Karura Forest Reserve in Nairobi”. *Political Geography*, 29, 333–342.
- Nyambura, G. 2015. ‘Corrupt officers allocating forest land for farming at fee’. *Daily Nation* (30 April), <http://mobile.nation.co.ke/counties/Dundori-forest-station-corrupt-officers/-/1950480/2701816/-/format/xhtml/-/osiqvz/-/index.html> (accessed 27 January 2016).
- Otieno, E. 2014. ‘EU to fund water tower protection at Sh3.5 billion’. *The Star* (15 October), <http://allafrica.com/stories/201410150654.html> (accessed 12 May 2015).
- Sengwer of Embobut Governing Council (SEGC). 2015. *Sengwer of Embobut Governance Structures and By-laws for Sustainable Conservation of Forests and all other Natural Resources*. SEGC. Kapyrgo.
- Standing, A. and M. Gachanja 2014. *The Political Economy of REDD+ in Kenya: identifying and responding to corruption challenges*. U4 Issue 2014(3). U4 Anti-Corruption Resource Centre. Chr. Michelsen Institute. Bergen.
- Thairu, N. 2012. ‘Politicians to blame for deforestation’. *The Star* (31 May), <http://allafrica.com/stories/201206011194.html> (accessed 11 May 2015).
- Tiampati, M. 2014. ‘Kenya’. In *The Indigenous World 2014*. International Working Group on Indigenous Affairs (IWIGA). Copenhagen.
- Tiampati, M. 2015. ‘Kenya’. In *The Indigenous World 2015*. International Working Group on Indigenous Affairs (IWIGA). Copenhagen.
- Transparency International. 2015. *Corruption Perceptions Index 2014*. Transparency International. Berlin.
- UN Environment Programme (UNEP). 2012. *The Role and Contribution of Montane Forests and Related Ecosystem Services to the Kenyan Economy*. UNEP. Nairobi.
- UN Reducing Emissions from Deforestation and Forest Degradation (UN-REDD) Programme. 2013. *A Corruption Risk Assessment for REDD+ in Kenya*. U4 Anti-Corruption Resource Centre/Chr. Michelsen Institute and UN-REDD. Bergen and Geneva.
- Vandever, S. 2013. ‘Resource curses: redux, ex-post, or ad infinitum?’ In: G. Dabelko, L. Herzer, S. Null, M. Parker and R. Sticklor (eds), *Backdraft: the conflict potential of climate change adaptation and mitigation*: 16–25. Wilson Center. Washington, DC.
- Wily, L. 2015. ‘The national constitution and forest dweller land rights in Kenya’, www.forestpeoples.org/sites/fpp/files/publication/2016/01/liz-aldden-wily-dec-2015-constitution-tfd-kenya.pdf (accessed 20 May 2016).
- World Bank. 2014. ‘Kenya: a bigger, better economy’, www.worldbank.org/en/news/feature/2014/09/30/kenya-a-bigger-better-economy (accessed 24 May 2015).

9. Strengthening institutions against corruption? Biofuel deals in Ghana

Festus Boamah and Aled Williams

A main reaction to development challenges in resource sectors is often to ‘strengthen institutions’. The assumption is that little can be done to spur economic progress unless efforts are made to reform and build the capacity of institutions to promote specific goals (Thomas and Grindle 1990). Should proposed reforms backfire, the usual response is to call for renewed efforts to strengthen institutional capacities or to blame failure on a lack of political will (Thomas and Grindle 1990). We refer to strengthening institutions as the capacity to create and sustain institutions that generate desired goals and address emergent contingencies, including unintended outcomes and conflicts (Lamb 1987; Thomas and Grindle 1990). Institutional reforms often suggested by anti-corruption campaigners include the strengthening of the judiciary, designing corruption-proof regulatory regimes, and establishing anti-corruption agencies (Uberti 2015). The phrase *strengthening institutions* has become a buzzword invoked by activists, particularly in the developing world where corruption poses threats to economic interventions. There is, however, a weak treatment of the nexus between the incidence of corruption and the reform of institutions in the anti-corruption literature (Mbaku 2007; Johnston 2014; Fjelde and Hegre 2014) and corruption is recognized to be embedded in deeper socio-cultural characteristics in developing countries (Uberti 2015). In this chapter, we reflect on whether strengthening institutions can indeed help mitigate corruption, focusing on the way formal institutions interact with less formal socio-cultural characteristics in the particular setting of southern Ghana.¹ We argue that understanding interdependencies between formal and informal institutions is crucial for appreciating why anti-corruption reforms tend to fail in post-colonial regimes characterized by contested notions of resource entitlement (Ubink and Amanor 2008; Berry 2001, 2009a; Lund 2008).

In ‘The rotten institution’, Paul Robbins (2000) posits that conceptualizing corruption as the outcome of a situation characterized by the

absence of a strong state can be misleading for two reasons. First, representations of corruption as the absence of strong state authority directs analysts to focus on why certain rules are not enforced or why certain norms do not take hold, making concrete and complex networks of corruption difficult to study. Second, conceptualizing corruption as an outcome of state weakness tends to reproduce a colonial account of post-independence development in the global south and undermines a meaningful theorization of corruption. Robbins advocates a shift from a focus on the absence of rules (or the lack of a strong state) to the presence of alternative norms and obligations that support networks of corruption. Robbins' take on corruption as the presence of differing institutions competing for legitimacy and trust within both the state and civil society is particularly interesting for describing corruption in post-colonial regimes where rival institutional actors jostle for authority.² In contexts where resource access is subject to constant negotiation and where multiple actors make reference to historical events to legitimate or undermine claims (Berry 2001; Lund 2008; Ubink and Amanor 2008), strengthening institutions to counter corruption in resource management is an onerous task. Distinguishing between formal and informal institutions helps shed light on this conundrum. According to Leach et al. (1999: 238), institutions refer to 'regularized patterns of behavior that emerge from underlying structures or sets of "rules in use"'. Since individuals and social actors continually invest in them, institutions are dynamic and social actors may be compelled to act irregularly or to contravene established rules (Leach et al. 1999: 238). Those sets of rules that require exogenous enforcement by third-party organizations are typically referred to as *formal institutions*. Classic examples are the application of the rule of law upheld by the state through organizations such as courts of law or prisons. *Informal institutions*, on the other hand, are endogenously enforced rules or rules upheld and applied based on mutual agreements among particular social actors or by relations of power and authority existing between such actors. In cases where both formal and informal institutions operate in synergy and cohere neatly, the strengthening of institutions may be a relatively straightforward task. In the reverse case, however, conflicts and contestations are inevitable. Conflicts often arise regarding the extraction and distribution of natural resources for the benefit of particular social groups when both formal and informal institutions are diametrically opposed to each other. Ghana's land sector is a classic case where the co-existence of formal and informal institutions has created contradictions and convoluted notions of land entitlement between families, chiefs and the state, from the colonial period to the present day. In a context of such deep-seated struggles, what

are the implications for the incidence of corruption in Ghana's land sector? As subsequent sections will illustrate, we do not intend to sensationalize a classic tension between *formal* and *informal* institutions but rather draw attention to salient aspects of these institutions that may be discarded, strengthened, or adapted to prevailing circumstances in order to help address 'corruption'.

LAND POLITICS AND RECENT BIOFUEL DEALS IN GHANA

Various land reform initiatives in Ghana, particularly during the colonial period (1850–1957) and early post-independence regimes (1957–1980s) have aimed to increase state control over land while reducing the power of chiefs through the use of compulsory land acquisitions (Larbi et al. 2004; Kasanga 2002) and land bills (Busia 1951). The acquired land was often used for projects intended to serve public interests (for example, agriculture and forestry, educational facilities and dams) rather than benefit chiefs or the privileged class. The British colonial administration undertook various land acquisitions in the then Gold Coast (now Ghana). In the northern protectorate (that is, modern-day Northern, Upper East and Upper West regions), land was appropriated without compensation and the colonial state effectively controlled land in those areas (Kasanga 2002; Larbi et al. 2004). This situation remained so until the 1979 constitution required that the appropriated land be reverted to its 'original owners' (Lund 2008). In contrast, chiefs and educated elites in the colony and the Ashanti (now covering Ashanti and Brong-Ahafo regions of southern Ghana) successfully resisted the Crown Land Bills of the 1890s, and consequently compensation was paid to landowners following compulsory land acquisitions by the state (Larbi et al. 2004). The use of chiefs as agents of the British colonial administration (the 'Indirect Rule' system of administration), gave the chieftaincy institution a certain prominence, particularly in southern Ghana. For example, the system of administration formalized the power of Ghanaian chiefs in the application of customary law in their areas of jurisdiction and collection of levies/taxes for the colonial authorities (Brempong 2007). However, chiefs were closely supervised by the colonial authorities and this affected the autonomy and financial backbone of chiefs compared to the precolonial period when they were not answerable to any higher authority in the collection of tributes (often in food, proceeds from hunting, gifts, and so on) from their subjects (Brempong 2007; Boamah 2014b).

After independence, the Convention People's Party (CPP) government (1957–1966), led by Ghana's first President, Dr Kwame Nkrumah, introduced many reforms which were intended to bring Ghanaian chiefs under government control and hence establish the state as the main regulator of land revenues. Land reform initiatives by the CPP were partly intended to bring economic relief to tenant farmers who cultivated stool land³ (Boni 2005; Aryeetey et al. 2007). Revenues from stool land were largely collected by the government, a situation that affected the finances of chiefs. In the 1980s, neoliberal policy recommendations stating that governments should transfer state-owned land to private individuals as a way of stimulating investments in land paradoxically gave government officials the leeway to control and/or sell state-owned land for themselves and their cronies (Berry 2009b).

These land reforms, however, met with limited success in southern Ghana due to the resilience of the chieftaincy institution in this part of the country. Here, chiefs bolstered their positions by extolling and reinforcing the acts of their ancestors who conquered and annexed boundaries of once powerful kingdoms and chiefdoms, emphasizing that their own authority predated the modern-day state of Ghana (Boamah 2015a, 2015b). Even under the CPP government when land reforms affected the authority of chiefs, many chiefs successfully retained some control over land and continued to collect land rents or tributes from migrant farmers, for example. Following the overthrow of Nkrumah in 1966, successor Ghanaian governments restored state-confiscated land to chiefs and other customary landowners and were thus henceforth less hostile toward customary authorities (Berry 2009a). The chiefs of southern Ghana, particularly those in cocoa-producing areas, applied diverse strategies to collect tributes from migrant farmers to denote a continuation of custom (Boni 2005; Berry 2013). After the return to constitutional democracy in 1992, various governments again sought to involve chiefs in resource governance and party politics (Berry 2013; Boamah 2015b). The 1992 Constitution, for example, vested all public land in the President on behalf of the state, but also vested all stool lands in stools represented by chiefs based on customary law. The state formation process in Ghana has thus created a situation where chiefs hold some 'state-like' qualities regarding land resources throughout Ghana, particularly in the southern part of the country. Nurturing intimate relationships with chiefs has become important for accessing land, especially in rural areas where formal institutions/regulations are less than effective.

The past decade saw a new wave of large-scale land allocations in Ghana for biofuel projects, involving investors from Norway, Canada, and Italy. Many of these land allocations were negotiated solely by

chiefs, and have met with widespread criticism from researchers, NGOs, the media, and activists in project areas – not only because of a lack of consent by community members, but also because of suspicions of corruption (Bull 2010). The allocations have been termed examples of *land grabbing* involving the destruction of livelihoods and land dispossessions (see Bull 2010). The framing of biofuel land deals in northern Ghana as *land grabbing* led to the suspension of a Norwegian jatropha biofuel project by the Environmental Protection Agency (EPA) on grounds of lack of informed consent, lack of governmental approval and collusion between chiefs and the investor (Boamah 2011). The weaknesses of state institutions in land administration, the convoluted land tenure system in Ghana and the unbridled power of chiefs in the extraction of natural resources added vitality to suspicions of corruption in the biofuel deals. Chiefs tend to refer to such deals as *land transactions*, emphasizing that allocation of so-called under-utilized or marginal lands to Western agricultural investors were a viable way of generating pro-poor projects in a context of limited rural employment and that such land areas have *not been sold out to foreigners* (Boamah 2011, 2014a, 2014b). Chiefs engaged in the allocation of land further fend-off public criticism by claiming that indigenous people,⁴ rather than migrants, are customarily entitled to land and hence biofuel deals are an effective means of benefitting the indigenous population.

Calls for government to strengthen institutions to reduce the incidence of corruption in the land sector have led to the introduction of formal policy guidelines and legislation to strengthen the power of state agencies and organizations involved in the evaluation and registration of large-scale land allocations (Ghana Lands Commission Act 787, Ghana Lands Commission 2012). In February 2012, the Ghanaian government – through the Ghana Lands Commission – sought to retain some control over large-scale land allocations and introduced guidelines for land allocations above 400 ha (1,000 acres). A premise behind these land regulations is the claim that Ghanaian chiefs do not have the capacity to negotiate and approve such large land deals because to date this has been the sole preserve of Ghanaian governments. Implicit in the new regulations is thus a bid to curb the power of chiefs as part of efforts to introduce efficiency in the management of land resources. The government has further sought to centralize authority from the Regional Lands Commission and its allied state agencies and called for the active involvement of Ghana's Environmental Protection Agency in developing rigorous environmental assessment and monitoring standards. Since the new regulations, land allocations above 400 ha must now be approved by the National Lands Commission instead of the Regional Lands Commission.

Ghanaian chiefs had until the past decade allocated relatively small areas of land for farming and other economic activities. Yet the new land regulation and other reform initiatives seem to have conflicted with informal institutions and statutes that empower customary authorities (chiefs, family heads) as custodians of stool land and related natural resources. For example, as per the Land Commission Act 767(21), documented consent between chiefs or customary landowners (or any legitimate land grantor) and prospective investors is a prerequisite for large-scale land allocations. Once the documented consent is submitted to the office of the Lands Commission, the involvement of state institutions in the registration and approval of land allocations late in the formalization process is a mere formality and thus inconsequential (Boamah 2015a, 2015b). Even more instructive is a provision in Article 267(1) of the 1992 Constitution of Ghana that recognizes chiefs as entities who should hold land in trust for and on behalf of people according to customary law. Indeed, new legislation and policies enacted by post-independence governments have sought to fashion formal institutions from informal ones constituted by conventionalized practices that predate independence.

These complexities beg a difficult question: Precisely *which* institutions are in need of strengthening to mitigate corruption in Ghana's land sector? We address the conundrums surrounding initiatives aimed at strengthening various institutions in Ghana's land sector, by discussing two recent biofuel projects in southern Ghana.

THE KIMMINIC JATROPHA PROJECT

This project involved a joint venture land deal (13,000 ha out of a total of 65,000 ha acquired) between an investor (Kimminic Estates Ltd) and a project village called Bredi in the Nkoranza Traditional Council (NTC) in the Brong Ahafo region of Ghana. The objective was to cultivate jatropha on marginal land for biofuel production in 2008 when oil prices reached an all-time high of over USD 140 per barrel. When the project began, there was widespread skepticism in the village and fears of land dispossession and livelihood destruction. The scope of the land deal and mode of project implementation had been structured to allay such concerns among village residents, and particularly those persons who trace their descent to the village, that is, 'local citizens' (*kuromafo*). The project was funded by Canadian investors and Ghanaian residents in Canada. The project village contributed by providing land for jatropha cultivation, though compensation payments or new land was supposed to

be given to the 'local citizens' or 'indigenes' whose farmland areas would be affected. A profit-sharing deal of 75 percent for Kimminic and 25 percent for the NTC was also agreed (Kimminic 2010). Having scrutinized the land deal and registered the consent of the NTC and Kimminic, Ghana's Land Commission approved the Joint Venture in July 2008. In other words, the project village, represented by the paramount chief of the NTC, was a partner in and co-owner of the project.

As a joint venture designed to generate 'equitable outcomes for the parties' involved, both the Ghanaian investors and NTC agreed that certain areas within the plantation should be reserved for local farmers. Kimminic collaborated with the NTC by adopting both mechanized and labor intensive production methods in order to create employment mainly for those considered 'local citizens'. People categorized as migrants (*ahohoo*) were less favored. The main rationale for drawing these social distinctions was the chiefly motivation to extract and distribute values from land for the benefit of the indigenous population. It is striking to note that migrants cultivating stool land are customarily required to pay annual tributes to village chiefs that are subsequently sent to the office of the paramount chief. Migrants accused of evading annual agricultural tributes thus lost their land areas. Migrants who faced land dispossession had to either rent new land or cultivate smaller areas of land either used or owned by friends whose land was not affected, or use networks to access land owned by the *kuromafo*. As messengers of paramount chiefs at the village level, migrants with weaker land use rights strategically secured continued access to land by regularly paying bribes to village chiefs. These payments were obscured from the oversight of the NTC. Consequently, affected migrant farmers and charcoal producers who regularly paid tributes (as customarily required) or secretly paid bribes to village chiefs gained access to new land. Significant portions of such payments were rarely accounted for at the office of the NTC (Boamah 2014b). This problem is widespread at the village level because such payments are undocumented and village chiefs do not receive a specified periodic remuneration, hence collected tributes and bribes are rarely sent to the treasury of the Traditional Council.

Adherence to the joint venture agreements and the establishment of other corporate social responsibility measures created cordial relations between Kimminic and the project village. The CEO's familiarity with agrarian issues in rural Ghana was reflected in positive statements from chiefs and plantation workers. Although Kimminic aimed to favor the indigenous population in job recruitment and other opportunities, the CEO advocated employment of a large number of migrants too in order to strengthen cordial relations with residents of the project village.

Migrants, particularly those who had established social networks with chiefs, family heads and other influential persons, benefitted from the project in terms of employment and access to land until the project was suspended on grounds of limited funding to continue project operations (Boamah and Overå 2016). Up until suspension of the project in mid-2012, the livelihoods of most of the forty households studied improved.

A few migrant farmers, however, teamed up with a local NGO (Action Aid International-Ghana) and community-based activist groups to challenge chiefs over land dispossession. The NTC equally undermined the land claims by these 'migrants' by way of tracing their genealogy and challenging them to show proof of payment of land rents or tributes for the use of stool land. Farmers whose land use rights were challenged/questioned by the NTC were labelled 'noncompliant'. Those who showed reverence to chiefs by paying regular tributes and even bribes were eulogized as having 'collaborated' with the NTC. Certain aspects of this 'collaboration' involved bribery, collusion and other exchanges denoting corrupt behavior. At the same time, collaboration between Kimminic, NTC, the Ghana Lands Commission, and the local population regarding the observance of the terms of the Joint Venture agreement, instilled certain checks and balances in project implementation that contributed to improved livelihoods and few cases of land dispossession. Such collaboration created a kind of 'protective belt' that reduced the potential for widespread corruption, even though some corrupt practices were observed.

THE SCANFUEL JATROPHA BIOFUEL DEAL

In 2009, Agogo Traditional Council (ATC) in the Ashanti region leased an area of 13,000 ha to a Norwegian biofuel company (ScanFuel Ltd) for a period of 50 years for jatropha cultivation intended for biodiesel production. Although the jatropha plantation was established in 2009, land negotiations between chiefs of the ATC and the investor company began earlier in 2007, culminating in a Memorandum of Understanding submitted to the Ashanti Regional Lands Commission for assessment. In 2010, the company switched from jatropha cultivation to maize production and consequently changed its name from ScanFuel to ScanFarm. By 2011, the company had included soya bean production. The paramount chief who negotiated the land allocation claimed the leased land was predominantly grassland and marginal land suitable for the cultivation of jatropha. The chief further claimed that the motivation for the lease

agreement was to generate employment for young people in the village and to eject migrants who often evaded land rents and agricultural tributes (author interviews 2012–2013).

The switch from jatropha to food crop production, however, led to a switch toward the use of productive farmlands even though a ‘marginal land narrative’ was still used to justify the deal. Affected residents were to be paid GHS⁵ 15 per acre per year, but this was not properly communicated to the project village. Since no formal boundaries existed between stool land and family or private land, portions of land cultivated by some households were affected. A community-based activist organization called Concerned Citizens and Youth of Agogo (*Agogomanmakuo*) and Action Aid-Ghana provided updates about the project through sensitization workshops and public demonstrations. Abroad, a Norwegian youth organization (Spire) commissioned a study on the project and circulated a paper entitled ‘The Norwegian land grabbers’ on the Internet.

Poor consultation and a general lack of transparency in the land allocation process resulted in widespread land dispossessions in the project areas. ‘Migrants’ who paid bribes to chiefs or who showed reverence to chiefs were least affected, however. Reciprocal relationships with chiefs and landlords/family heads became an important requirement to sustain or gain access to land resources in the project village (Boamah and Overå 2016). Following a series of public demonstrations against the agreement and accusations of corruption toward the paramount chief who had allocated land to agricultural investors without community consent, a Municipal Chief Executive (MCE)⁶ liaised with the regional branch of the Lands Commission and called for revision of the 50-year lease agreement in January 2011. This revision involved a reduction in the lease period from 50 to 15 years. Compensation payments to affected residents were increased from GHS 15 to GHS 30 per acre per year. To enhance transparency and public trust in the land deal, the allegedly affected residents were invited to negotiate directly with ScanFarm to decide compensation terms. Chiefs could only get involved to assist determination of the ethnic identity or genealogy of land claimants and boundaries between farmlands. These local regulatory reforms were at the time assumed to ensure efficiency in the land deal.

Two problems ensued after the interventions by the MCE and the Land Commission. First, landscape features (for example, teak stumps, oil palm trees) used by farmers to mark farmland boundaries had been removed during the land preparation stage and residents had to rely on farming narratives and settlement history to determine the exact locations and sizes of affected areas. Second, the call for renegotiation of the lease

created contestations as many residents made conflicting claims to farmlands in order to gain access to larger areas of land. A common Ghanaian expression ‘scratch my back and I scratch yours too’ became widespread as collusion among residents to redefine farmland boundaries to benefit fellow farmers increased. The new regulations in 2012 by the Land Commission complicated matters as it increased bureaucracy in the processing of the lease agreement. As per the new regulations, the Memorandum of Understanding (involving 13,000 ha), which was still being processed, had to be transferred from the Regional Lands Commission to the office of the National Lands Commission headquartered in Accra. By January 2013, the lease agreement was yet to be approved by the National Lands Commission even though the project continued. Having made multiple compensation payments for similar land areas, ScanFarm rejected many belated but legitimate land claims pending the outcome of the lease agreement assessment by the National Lands Commission.

Apart from a few individuals and residents with social networks who gained new land areas through court rulings, implementation of the project created widespread land dispossession in the studied households. Affected residents had to rent new land areas, share farmlands with friends or pay bribes and give gifts, especially to village chiefs and other customary office-holders, in order to secure land use rights. A common corrupt practice that ensued land dispossession was collusion between village chiefs and migrant farmers/charcoal producers in the collection and delivery of proper accounts of agricultural tributes at the office of the Traditional Council. Affected migrant farmers and charcoal producers who bribed village chiefs were often allocated new land areas, but the ATC claimed to be oblivious to some of these village-level networks and clandestine land deals. It is worth noting that there were complaints that agricultural tributes collected by the village chiefs were often either embezzled or underreported to the office of the ATC (author interview with the Registrar of the ATC 2012). In fact, many officers of the ATC were accused of diversion of collected tributes at the village level. There were also reports of impersonation of messengers of the ATC in the collection of agricultural tributes (author interviews 2012).

Another dimension of corruption was the chiefs’ unwillingness to address the concerns of some affected customary landowners even after the NTC had admitted that portions of the leased land were held by indigenous families and individuals in the project areas. For example, despite numerous court rulings by the Lands Commission, NGO advocacy and public complaints against the land deal, the paramount chief (who doubles as a lawyer and seasoned politician) managed to fend-off

public criticism by defying court orders, and by invoking historical events and customs to justify land allocations. The position and demeanor of chiefs regarding the land allocations revealed an overarching motivation to consolidate and formalize their authority over land (Boamah 2014b).

CONCLUSION

The objective of strengthening institutions is to improve rules and regulations that contribute to addressing potentially conflicting interests in a society. However, in a convoluted system where rival institutions (or institutional actors) jostle for authority to govern natural resources, generating desirable outcomes may require more than simply tightening formal rules and regulations, or implementing new statutory regulations.

From the two cases discussed here, chiefs claim that they were motivated to re-establish authority over land in order to create employment opportunities and social infrastructure, particularly for indigenous populations. The investors mentioned undisclosed monies paid to chiefs and other political office-holders in the facilitation of the land deals. However, chiefs invoked customs differently in negotiating the terms of the two land deals. A lack of transparency in the ScanFarm deal, especially in the early stages, constituted the root of discontent and generated mistrust between actors. Activism by NGOs and other community-based civil society using ‘land grabbing’ framings with the hope of sensitizing the public about the potentially negative outcomes of the ScanFarm project generated fierce public opposition to the project. Meanwhile, a wish to protect the chiefs and maintain relevant networks for project implementation prompted a covering-up of clandestine payments made to the ATC. Belated interventions by state organizations (or state officials) aimed in both cases to ‘improve’ the land deals paradoxically increased corrupt practices.

We do not view the Kimminic project as a ‘best case’ or the ScanFarm project as a ‘worst case’ scenario. Rather, we suggest a *prima facie* argument for initiatives intended to strengthen institutions to fix corruption in the land sector: we think it crucial to consider how formal and informal institutions interact in a given setting. Reverence for the chieftaincy institution in Ghana, and the prominence of chiefs in party politics from the precolonial, colonial and post-independence eras, suggest institutional reforms aimed at supplanting their power over land allocations are unlikely to generate desirable outcomes. Reforms are indeed needed to ensure checks and balances in the making of land deals,

but a gradual collaboration between chiefs, state agencies and civil society also appears necessary to address corruption more effectively. Strengthening institutions and policies against corruption by merely tightening rules and regulations or increasing bureaucracy in land allocations may register limited success and may even be counterproductive. We propose instead collaboration where the limits of powers and specific roles of different actors are clearly defined and legally binding. Future research on corruption should explore which aspects of formal and informal institutions ought to be strengthened in particular socio-political contexts in order to reduce land-related corruption.

NOTES

1. Based on eight months of ethnographic fieldwork in southern Ghana (between April 2012 and January 2013), conducted by Boamah, involving a survey of 80 farming households across two biofuel project sites.
2. What Lund (2011) calls ‘fragmented sovereignty or authority’ or Ray (1996) calls ‘divided sovereignty’.
3. Stools refer to the seat of authority of chiefs. Stools constitute Traditional Councils, headed by a Paramount Chief. Village chiefs act as messengers or representatives of Paramount Chiefs at the village level in terms of overseeing the use of land, and are also responsible for collecting and delivering accounts of agricultural tributes to the office of the Traditional Council. The terms chiefs, traditional councils and traditional authorities are used interchangeably in this chapter.
4. We refer here to individuals and social groups who trace their descent to the project villages. The terms local citizens, indigenous population or indigenous people are used interchangeably in this chapter.
5. New Ghana Cedi. GHS 1 was approximately equivalent to USD 0.5 during the fieldwork period in Ghana.
6. Municipal Chief Executives are public officials appointed for the purpose of local administration and development in Ghana’s Municipal Assemblies. Municipal and District Assemblies are local government agencies of the central government in Ghana.

REFERENCES

- Aryeetey, E., J.R.A. Ayee, K.A. Ninsin, and D. Tsikata 2007. *The Politics of Land Tenure Reform in Ghana: From the Crown Lands Bills to the Land Administration Project* (Report No. 71). Institute of Statistical, Social and Economic Research (ISSER). Accra.
- Berry, S. 2001. *Chiefs Know Their Boundaries: Essays on Property, Power and the Past in Asante, 1896–1996*. Heinemann. Portsmouth.
- Berry, S. 2009a. ‘Property, authority and citizenship: land claims, politics and the dynamics of social division in West Africa’. *Development and Change*, 40(1), 23–45.

- Berry, S. 2009b. 'Building for the future? Investment, land reform and the contingencies of ownership in contemporary Ghana'. *World Development*, 37(8), 1370–1378.
- Berry, S. 2013. 'Questions of ownership: proprietorship and control in a changing rural terrain – a case study from Ghana'. *Africa*, 83(1), 36–56.
- Boamah, F. 2014a. 'Imageries of the contested concepts “land grabbing” and “land transactions”': implications for biofuels investments in Ghana'. *Geoforum*, 54, 324–334.
- Boamah, F. 2014b. 'How and why chiefs formalise land use in recent times: the politics of land dispossession through biofuels investments in Ghana'. *Review of African Political Economy*, 41(141), 406–423.
- Boamah, F. 2015a. 'Exploration dispossession: biofuel land deals in Ghana'. *Democracy in Africa (DiA) blog*, <http://democracyinafrica.org/exploring-dispossession-biofuel-land-deals-ghana/> (accessed August 10, 2016).
- Boamah, F. 2015b. *Biofuels and land politics: Connecting the disconnects in the debate about livelihood impacts of jatropha biofuel land deals in Ghana*. PhD dissertation, University of Bergen, <https://bora.uib.no/handle/1956/9861> (accessed May 6, 2015).
- Boamah, F. and R. Overå 2016. 'Rethinking livelihood impacts of biofuel land deals in Ghana'. *Development and Change*, 47(1), 98–129.
- Boni, S. 2005. *Clearing the Ghanaian Forest: Theories and Practices of Acquisition, Transfer and Utilization of Farming Titles in the Sefwi-Akan Area*. Institute of African Studies. Legon.
- Brempong, A. 2007. *Transformations in Traditional Rule in Ghana (1951–1996)*. Institute of African Studies. Legon.
- Bull, C. 2010. *Norwegian land grabbers in Ghana – The case of ScanFuel*. Spire. Oslo, <http://pdfcast.org/pdf/norwegian-land-grabbers-in-ghana-the-case-of-scanfuel> (accessed August 10, 2016).
- Busia, K.A. 1951. *The Position of the Chief in the Modern Political System of the Ashanti*. Oxford University Press. Oxford.
- Fjelde, H. and H. Hegre 2014. 'Political corruption and institutional stability'. *Studies in Comparative International Development*, 49(3), 267–299.
- Ghana Lands Commission. 2012. *Guidelines for Considering Large Scale Land Transactions for Agricultural and other Purposes*. Ghana: February.
- Johnston, M. 2014. *Corruption, Contention and Reform: The Power of Deep Democratization*. Cambridge University Press. New York and Cambridge.
- Kasanga, K. 2002. 'Land tenure resource access and decentralisation in Ghana'. In Toulmin, C., Delville, P.L. and Traore, S. (eds) *The Dynamics of Resource Tenure in West Africa*: 25–36. Oxford: James Currey.
- Kimminic. 2010. Company home page, <http://kimminic.com/>.
- Lamb, G. 1987. *Managing Economic Policy Change*. World Bank Discussion Paper No. 14, Washington, DC.
- Larbi, W.O., A. Antwi and P. Olomolaiye 2004. 'Compulsory land acquisition in Ghana – policy and praxis'. *Land Use Policy*, 21(2), 115–127.
- Leach, M., R. Mearns and I. Scoones 1999. 'Environmental entitlements: dynamics and institutions in community-based natural resource management'. *World Development*, 27(2), 225–247.

- Lund, C. 2008. *Local Politics and the Dynamics of Property in Africa*. Cambridge University Press. Cambridge.
- Lund, C. 2011. 'Fragmented sovereignty: land reform and dispossession in Laos'. *Journal of Peasant Studies*, 38(4), 885–905.
- Mbaku, J.M. 2007. *Corruption in Africa: Causes, Consequences, and Cleanups*. Lexington Books. Plymouth.
- Ray, D.I. 1996. 'Divided sovereignty: traditional authority and the state in Ghana'. *Journal of Legal Pluralism and Unofficial Law*, 37–38(28), 181–202.
- Robbins, P. 2000. 'The rotten institution: corruption in natural resource management'. *Political Geography*, 19(4), 423–443.
- Thomas, J.W. and M.S. Grindle 1990. 'After the decision: implementing policy reforms in developing countries'. *World Development*, 18(8), 1163–1181.
- Uberti, L.J. 2015. 'Can institutional reforms reduce corruption? Economic theory and patron–client politics in developing countries'. *Development and Change*, doi: 10.1111/dech.12222.
- Ubink, J.M. and K.S. Amanor (eds) 2008. *Contesting Land and Custom in Ghana: State, Chief and the Citizen*. Leiden University Press. Leiden.

10. Forest resources and local elite capture: revisiting a community-based forest management ‘success case’ in Tanzania

Joseph Perfect Mrema

Elite capture occurs when a few individuals seize public decision-making processes and economic resources through their privileged position in a society in terms of power, wealth, social status and networks, education, or ethnicity (Persha and Andersson 2014). It is a rather broad and complex social phenomenon, which can be subdivided into three dimensions: elite control of local policy and decision-making (Lund and Saito-Jensen 2013; Alatas et al. 2013); capture of resources and monopolization of benefits (Lund and Treue 2008; Vyamana 2009) and corruption by elites (Veron et al. 2006; Zulu 2008). These major forms of elite capture can intertwine to undermine control of resources by citizens. Elite capture results in distributional problems, such that public resources benefit a few powerful individuals. This phenomenon is important as it tends to reduce the availability of such resources for marginalized groups (such as the poor, low caste groups, and women), who are highly dependent on public resources (Agarwal 1997).

Well-crafted community-based natural resource management¹ (CBNRM) interventions encompassing devolution of resources and power; representation of marginalized groups (the poor, women, and lower caste groups); democratic decision-making space; downward accountability mechanisms; and equitable benefit sharing instruments, are considered remedies to elite capture problems (Lund and Saito-Jensen 2013; Rana 2014; Ribot 2002a, 2002b; Saito-Jensen et al. 2010). Such decentralized approaches tend to be motivated by concerns about resource capture, freeriding and depletion by ineffective and unaccountable state authorities (Rana 2014). CBNRM interventions aim to bring poorly performing state authorities closer to local people in order to nurture local knowledge, harness community needs and aspirations, and

encourage more transparency and downward accountability (Roe et al. 2009; Ribot et al. 2006).

Although such decentralized approaches can be well meant, appealing and difficult to ignore, evidence of their practical performance is disappointing (Persha and Andersson 2014). Existing evidence tells us that it is often the rich and well-connected at local level who benefit from such programmes at the expense of marginalized groups (Saito-Jensen et al. 2010; Zulu 2008; Lund and Treue 2008; Mansuri and Rao 2013; Topp-Jorgensen et al. 2005; Vyamana 2009). Some scholars argue CBNRM interventions have inadequate understanding of power relations at the local level, and are therefore prone to local elite capture. It is difficult to craft policies for politically complex situations and this seems especially true for formalized CBNRM interventions (Saunders 2014).

There is, however, limited knowledge of the contextual institutional conditions that facilitate elite capture (Bardhan and Mookherjee 2000, 2006) and how CBNRM can mitigate such challenges (Persha and Andersson 2014; Lund and Saito-Jensen 2013). Persha and Andersson (2014), for instance, argue for higher risks of elite capture in CBNRM, which increase with time. Lund and Saito-Jensen (2013), on the other hand, argue that when decentralized CBNRM is given time (that is, at least a decade) elite capture can be minimized through the agency of formerly marginalized groups. Guidance on how elite capture occurs and methods for avoiding it remain contested and poorly developed. Because many studies on elite capture are based on snapshot evaluations at certain points in time, they tend not to take into account long-term dynamics. There is a need, therefore, for in-depth and longitudinal empirical investigations (Lund and Saito-Jensen 2013) which consider elite capture within wider social dynamics. In this chapter, I explore how community-based forest management interventions (CBFM)² produce or circumvent local elite capture by referring to a well-known ‘success case’ in Tanzania.³

THE DURU-HAITEMBA CASE IN TANZANIA

The Duru-Haitemba forest is frequently recognized as one of the best cases of CBFM in Tanzania (Kajembe et al. 2003; Wily 2001a, 2001b). It was the first forest in the country to be declared a CBFM forest through facilitation of a Swedish-funded Land Management Programme (LAMP)⁴. Some scholars have used the Duru-Haitemba case to claim that CBFM enables devolved power and resources, accountable democratic governance, sustainable forest management and equitable benefit sharing

(Kajembe and Monela 2000; LAMP 2004; Wily and Dewees 2001). It enjoyed donor support for 13 years (from 1994 to 2007) aimed at empowering the local community towards the sustainable management of natural resources. CBFM pilot projects funded by the LAMP programme, particularly the Duru-Haitemba case, provided a basis for developing the CBFM rules and procedures in the Forest Policy of 1998, the Forest Act of 2002 and the CBFM Guidelines of 2007 (Blomley and Iddi 2009; Nelson and Blomley 2010; Wily 2001a). Nonetheless, this chapter critically analyses the dynamics of elite capture before, during and after LAMP.

Before LAMP and CBFM

The woodlands in the Duru-Haitemba area were the only sizeable woodlands in Gorowa chiefdom⁵ in the early 1980s, covering about 9,000 ha, and acted as a catchment area for lake Babati. They were, however, open-access resources, used for farming, charcoal making and timber harvesting. Around 1985, district soil and water conservation bylaws were applied to the Duru-Haitemba area. The bylaws prevented villagers from exploiting these unreserved woodlands without the permission of two forest officers posted in the Gorowa division. But illegal forest activities continued through collusion involving these forest officers with some well-connected and relatively wealthy villagers.

In the early 1990s, these woodlands were earmarked for gazettement as a national forest reserve. The process of gazettement of the Duru forest (part of the Duru-Haitemba forest) as a state government forest reserve was characterized by significant resource capture. The forest officials who were involved in surveying the forest received bribes (in the form of a male goat, *Beberu*) so as to provide valuable land to patronage networks within the forested area.⁶ Several villagers obtained farms within the forest reserve through offering *Beberu*, as one told me: 'Here, I am not narrating to you just a story, I still possess that farm which I was given after offering *Beberu* to forest officer'. Accounts by villagers describe how a significant number of villagers managed to cut timber, make charcoal and own land in the forest through patronage networks. The senior district government official in Babati at the time pointed out to me that:

The forest surveyors spent 60 days gazetting Duru forest, which is equivalent to bribery of countless *beberus* (male goats) and came with a forest map which was so tiny. We decided to abandon that map. Afterwards, the LAMP project came and involved villagers in conserving the forest. We didn't survey

the forest on the ground and the size of Duru-Haitemba forest (estimated to be 9000 ha) was based on satellite images without a professional ground survey.

During LAMP Tenure

In 1994, a consultant was invited to explore methods for conserving the forest and resolving the complaints and conflicts with villagers over resource capture problems during its gazettelement. This consultancy was supported first by the Swedish-funded Regional Forest Programme (Wily 1997), and shortly after by LAMP which succeeded it (Wily and Dewees 2001). The respondents across different villages argued that LAMP used existing biophysical conditions such as deforestation, soil erosion, low rainfall, and the drying-up of water sources to convince local people to conserve the Duru-Haitemba forest. Information from traditionalists⁷ and village elders was used to prove the degradation by comparing with the past, and meetings were held at sub-village and village levels to sensitize local people to participatory approaches in managing the forest.

The Village Natural Resources and Environmental Committee (VNREC) was elected as a sub-committee of the village council charged with management of the forest. The rules regarding forest management were prepared and approved by the entire community through village meetings. It is important to note that the arenas for forest-related elite capture in the 1970s and 1980s, such as encroachment of the forest for farming, charcoal and logging, were all banned. Other features of the management plan and bylaws were the permit issuing system, in which permits are supposed to be issued by the VNRECs; transparency maintained through essential VNREC records (on minutes, patrols, offences and fines, permits, revenue and expenditure); and receipt books aimed at attaining accountability through oversight by villagers, village councils, and district forest officers.

Forest guards posted around the forest numbered 108 by September 1995 (equivalent to 12 local guards per 1,000 ha), many more than the two state forest officials posted in Gorowa chiefdom (about 0.0002 guards per 1,000 ha).⁸ After about two years of CBFM implementation, the facilitators argued encroachment of the forest for farming, timber harvesting and charcoal making had ended, and the main activity of forest guards was to protect the forest against non-villagers (Wily 1997). In the 2000s, LAMP and district forest officers concentrated on extending CBFM from Duru-Haitemba to the entire district (from 8 to 45 villages, respectively, as per the district register of CBFM, 2009) and illegal forest activities began to resurface as explained in the next section.

After the LAMP Phase-out

The LAMP programme was phased-out in 2007 and from 2010 decision-making powers began to return to some village leaders⁹ at the expense of the public. Some VNREC leaders, especially the chairman and secretary, happened to issue permits and charge offenders without involvement of the entire committee. One member of the village council in village B told me in 2011:

VNREC is totally dysfunctional. Its members are doing illegal activities in the forest. We have given the forest to bandits to conserve on our behalf. The chairman of VNREC is illegally giving pieces of land in the forest to some villagers for personal gains. The secretary of VNREC is selling timber in the forest without involving the entire committee. There is no report of revenues and expenditures from the forest committee for almost a year. The criminals established a big charcoal kiln in the forest. VNREC, VEO and village chairman were told by villagers but did not address the problem to an extent the criminal/poachers made charcoal and sold.

My fieldwork in the same village during the same year allowed me to observe the illegal issuance of timber harvesting permits by the VNREC chairman and secretary to people who were sending it to the nearby towns of Babati and Arusha. The villagers could not resolve these disputes through complaints sent to village authorities as the VNREC leaders were protected by the village chairman, who was the brother of the VNREC chairman. They were, however, caught doing such illegal activities after information was sent to the Ward Executive Officer (WEO).¹⁰ A few days later, the VNREC chairman was caught cutting timber at a pit-sawing area by the WEO. One of the ox-carts taking the timber out of the village at night was caught carrying timber a few days later. The village chairman was suspended while the VNREC secretary, who issued illegal permits, was left in position apparently as a result of protection from a senior village leader. In a data validation workshop in November 2014, I learnt that the VNREC secretary offered numerous permits and charged fines (during 2010–2013) but never reported them to the village council and villagers during his tenure.

In village C, the same control of decision-making and monopolization of benefits by village leaders was noted. According to one informant:

Village leaders allow some people to harvest timber for business purposes. We see timber moved through the village center to Babati town. We report these illegal activities but there is nothing done.

In the same year, another respondent told me:

We complained about illegal logging in the forest, members of VNREC went into the forest and came with three pieces of timber and the offenders were fined Tshs 15,000. Later on, I saw trucks coming to take the logs and timber in the forest and send them to Babati town. The offender paid Tshs 15,000 but got about Tshs 500,000 from sale of the timber.

During validation workshops in February 2015, participants argued offenders who were harvesting timber, making charcoal and encroaching on the forest, were hardly dealt with. They also argued that patrols and permit issuance did not involve the entire VNREC, while fines of Tshs 15,000 had become informal permits for much more profitable illegal forest activities.

In village A, VNREC members were suspended by the village chairman in 2010 for their involvement in illegal forest activities. The village chairman became the overseer of forest management issues, but was then accused in 2011 for colluding with offenders to illegally harvest timber and manipulate forest bylaws for personal and network gains as noted by respondents:

Offenders are fined by the village chairman Tshs 15,000 but continue to own the cleared areas in the forest and others continue to get timber and make charcoal in those areas. The bylaws have been manipulated as a tool for personal gains.

People who cleared the forest are fined Tshs 15,000 but the village chairman tells them to pay Tshs 300,000 so that they continue to own the cleared area in the forest.

In the same village, a group of respondents argued in 2011 that:

The chairmen of sub-villages X and Y are bribed and allow illegal activities to continue. They were fined Tshs 30,000 each, according to bylaws, but collected that small amount from the charcoal makers, telling them that they were fined because of protecting their business.

When I went back to this village in November 2014 for data validation workshops, one key informant argued it was not worth continuing with the workshop because the forest might no longer be there. Some respondents took me to some nearby areas in the forest, where we found significant illegal activities. We observed seven newly established illegal settlements and farms in the forest, more than ten charcoal kilns where charcoal had already been taken, three newly established charcoal kilns and countless tree stumps.

At the same time, my fieldwork revealed structural limitations to transparency and accountability of political elites. Village B, for instance,

lacked important records on internal undertakings by political elites (minutes for VNREC meetings, fines, permits, incomes and expenditures, receipts) from 2010 to 2015. The village had, however, records of a few patrols and offences for a new VNREC elected in 2014. Villages A and C, however, lacked any forest-related records (minutes, patrols, offences, fines, permits, incomes and expenditures, receipts) from 2010 to 2015 and saw rampant illegal activities in the forest. The VNREC was horizontally accountable to an elected village council, but these mechanisms were undermined by self-interest in forest products by both the VNREC and village council members. Upward accountability was also missing (from 2010 to 2015) as the district forest officials no longer ensured accountability of VNRECs in the Duru-Haitemba area due to financial constraints at district level. Their emphasis (district authorities) was on forests in general lands (that is, under no jurisdiction by any village) where the district receives revenues from the harvesting of forest products.

DISCUSSION AND IMPLICATIONS

This chapter affirms the need for longitudinal evaluation of the dynamics of local elite capture under evolving social settings rather than snapshot evaluations that often miss the big picture. Soil and water conservation bylaws and regional forest programmes designed to conserve dwindling natural resources, can be vulnerable to capture by collusive state forest officers and well-connected villagers. Such capture of resources through deconcentration¹¹ is documented in other cases around the world (Poteete and Ribot 2011; Ribot 1999, 2002a; Ribot et al. 2006).

During the LAMP-facilitated CBFM intervention (1994–2007) described above some earlier forms of local elite capture were circumvented through pro-poor and pro-marginal group mechanisms such as village management plans and bylaws; local permit issuing systems; frequent patrols and sanctioning; and donor-funded technical oversight. This was made possible by the structural power of the Swedish government in the Tanzanian forest sector, as the major funder in the 1980s and 1990s (Nelson and Blomley 2010) and their emphasis on the ‘urgency’ of sustainable development issues (Blomley and Iddi 2009). This view concurs with findings from Barnes and van Laerhoven (2013) and Persha and Andersson (2014) who argue elite capture can be minimized when an external organization plays a strategic role in relation to the provision of checks and balances within CBNRM programmes.

After LAMP was phased-out (2008–2015), the local elite’s control of forest-related decision-making, the monopolization of forest-related benefits and widespread petty forest related corruption re-emerged. These practices were triggered by the interest of village leaders, charcoal makers, pit sawyers and well-connected farmers in using resources within forest boundaries (that is, charcoal, timber, land). They were exacerbated, however, by structural limitations in terms of local elites’ transparency and downwards accountability.

Elite capture problems, poor transparency and weak accountability in CBFM’s institutional environment in Tanzania are well-documented (Brockington 2007, 2008; Bullock 2010; Fundi 2011; Lund and Treue 2008; Kistler 2009; Vyamana 2009). Even Lund and Saito-Jensen (2013), point out that circumvention of elite capture in CBFM over time can be inconsistent and can indicate replacement of one form of elite capture with another (Lund and Saito-Jensen 2013: 110). Donor support plays an important facilitation role in CBFM, but the crucial question is whether these community-based projects become sustainable when external funding is withdrawn.

NOTES

1. An alternative approach to centralized (state) ownership and management of natural resources, which emphasizes the devolution of resource control and decision-making powers to local communities.
2. A forest management approach in which local communities own forests and act as managers, duty bearers, and beneficiaries.
3. The data on which this chapter is based was collected during 2009–2015 in three Tanzanian villages through key informants interviews, focus group discussions, and participant observation. To preserve anonymity, the villages are randomly represented by the letters A, B and C.
4. The donor-funded programme that piloted CBFM in four districts (Babati, Kiteto, Simanjiro and Singida rural) and provided a basis for the new Forest Policy of 1998, which advocates for decentralized forest management.
5. The geographical area in which the Duru-Haitemba forest is located (also called Gorowa division in Babati district). The area had highly fertile soils and a lot of in-migration in the 1970s and 1980s and consequently saw resource degradation.
6. Here the patrons were forest officials while the clients were villagers interested in the forest for farming, charcoal and timber.
7. Villagers who kept their traditions and customs, that is, the ‘manda’ involved in conserving ‘qaymanda’ (small traditional forests).
8. They were mainly villagers exempted from community work such as local road construction.
9. Such as VNREC’s chairmen and/or secretaries, village chairmen, Village Executive Officers (VEO) and sub-village chairmen.
10. An appointed official supervised by the District Executive Director to carry out commands at ward level (the level in between village and district). This official, in turn, supervises Village Executive Officers.

11. This is a form of decentralization where agents of central government are posted at local level such that they are upwardly accountable to the state rather than the local community.

REFERENCES

- Agarwal, B. 1997. 'Environmental action, gender equity and women's participation'. *Development and Change*, 28(1), 1–44.
- Alatas, V., A. Banerjee, R. Hanna, B.A. Olken, R. Purnamasari and M. Wai-Poi 2013. *Does Elite Capture Matter? Local elites and targeted welfare programs in Indonesia*. Working Paper 18798. National Bureau of Economic Research. Cambridge, MA.
- Bardhan, P. and D. Mookherjee 2000. 'Capture and governance at local and national levels'. *American Economic Review*, 90(2), 135–139.
- Bardhan, P. and D. Mookherjee 2006. *Decentralization and Local Governance in Developing Countries: A Comparative Perspective*. MIT Press. Cambridge, MA.
- Barnes, C. and F. van Laerhoven 2013. 'Helping to self-help? External interventions to stimulate local collective action in joint forest management, Maharashtra, India'. *International Forestry Review*, 15, 1–17.
- Blomley, T. and S. Iddi 2009. *Participatory Forest Management in Tanzania, 1993–2009: Lessons learned and experiences to date*. Forestry and Beekeeping Division, Ministry of Natural Resources and Tourism. Dar es Salaam.
- Boamah, F. 2011. *Competition between biofuel and food? Evidence from a jatropha biodiesel project in Northern Ghana*. In Matondi, P., K. Havnevik, & A. Beyene (eds), *Biofuels, Land Grabbing and Food Security in Africa: 159–175*. Zed Books. London.
- Brockington, D. 2007. 'Forests, community conservation and local government performance: the village forest reserves of Tanzania'. *Society and Natural Resources*, 20, 835–848.
- Brockington, D. 2008. 'Corruption, taxation and natural resources management in Tanzania'. *Journal of Development Studies*, 44(1), 103–126.
- Bullock, R. 2010. *Rhetoric versus Reality in Participatory Forest Management in East Usambaras, Tanzania*. Academic Thesis. University of Florida.
- Fundi, E. 2011. 'Governance at community level: what is happening in villages practicing PFM?' *Arc Journal*, 26, 12–13.
- Kajembe, G.C. and G.C. Monela 2000. 'Empowering communities to manage natural resources: where does the power lie? A case study of Duru-haitemba, Babati, Tanzania'. In S. Shackleton and B. Campbell (eds), *Empowering Communities to Manage Natural Resources: Case Studies from Southern Africa: 125–135*. Division of Water, Environment and Forest Technology. CSIR. Pretoria.
- Kajembe G.C., G.C. Monela and Z.S.K. Mvena 2003. 'Making community-based forest management work: a case study from Duru-Haitemba village forest reserve, Babati, Tanzania'. In G. Kowero, B.M. Campbell and U.R. Sumaila (eds), *Policies and Governance Structures in Woodlands of Southern Africa: 16–27*. Center for International Forestry Research. Bogor.

- Kistler, S. 2009. *The Political Ecology of Community-based Forest Management in Suledo, Tanzania*. Thesis submitted to the Department of International Environment and Development Studies (Noragic), at the Norwegian University of Life Sciences (Umb) as partial fulfilment of Master's Degree in International Environmental Studies.
- LAMP. 2004. *Winning Democracy through Local Empowerment: Experiences of good governance* (Lamp booklet series. No.1). LAMP. Sweden.
- Lund, J.F. and M. Saito-Jensen 2013. 'Revisiting the issue of elite capture of participatory initiatives'. *World Development*, 46(6), 104–112.
- Lund, J.F. and T. Treue 2008. 'Are we getting there? Evidence of decentralized forest management from Tanzania miombo woodlands'. *World Development*, 36(12), 2780–2800.
- Mansuri, G. and V. Rao 2013. *Localizing Development: Does Participation Work?* World Bank. Washington, DC.
- Nelson, F. and T. Blomley 2010. "'Peasant" forests and the king's game? Explaining institutional divergence and convergence in Tanzania's forestry and wildlife sectors'. In F. Nelson (ed.), *Community Rights, Conservation and Contested Land: 79–105*. Earthscan. London.
- Persha, L. and K. Andersson 2014. 'Elite capture risk and mitigation in decentralized forest governance regimes'. *Global Environmental Change*, 24, 265–276.
- Poteete, A. and J.C. Ribot 2011. 'Repertoires of domination: decentralization as process in Botswana and Senegal'. *World Development*, 39(3), 439–449.
- Rana, P. 2014. *Elite Capture and Forest Governance in India*. Dissertation submitted in partial fulfilment of the degree of Doctor of Philosophy in Geography at the University of Illinois.
- Ribot, J.C. 1999. 'Decentralisation, participation and accountability in Sahelian forestry: legal instruments of political-administrative control', *Africa*, 69(1), 23–65.
- Ribot, J.C. 2002a. *African Decentralizations: Local Actors, Powers and Accountability* (Working Paper No. 8). United Nations Research Institute for Social Development.
- Ribot, J.C. 2002b. *Democratic Decentralization of Natural Resources: Institutionalizing Popular Participation*. World Resources Institute. Geneva and Washington, DC.
- Ribot, J.C., A. Agrawal and A.M. Larson 2006. 'Recentralizing while decentralizing: how national governments reappropriate forest resources'. *World Development*, 34, 1864–1886.
- Roe, D., F. Nelson and C. Sandbrook (eds) 2009. *Community Management of Natural Resources in Africa: Impacts, Experiences and Future Directions*, Natural Resource Issues No. 18, International Institute for Environment and Development. London.
- Saito-Jensen, M., I. Nathan and T. Treue 2010. 'Beyond elite capture? Community based natural resource management and power in Mohammed Nagar village, Andhra Pradesh, India'. *Environmental Conservation*, 37, 327–335.
- Saunders, F.P. 2014. 'The promise of common pool resource theory and the reality of commons projects'. *International Journal of the Commons*, 8(2), 636–657.

- Topp-Jorgensen, E., M. Poulsen, J. Lund and J. Massao 2005. 'Community-based monitoring of natural resource use and forest quality in montane forests and miombo woodlands of Tanzania'. *Biodiversity and Conservation*, 14, 2653–2677.
- Veron, R., G. Williams, S. Corbridge and M. Srivastava 2006. 'Decentralized corruption or corrupt decentralization? Community monitoring of poverty-alleviation schemes in eastern India'. *World Development*, 34(11), 1922–1941.
- Vyamana, V.G. 2009. 'Participatory forest management in the Eastern arc mountains of Tanzania: who benefits?' *International Forest Review*, 11(2), 239–253.
- Wily, L.A. 1997. 'Villagers as forest managers and governments "learning to let go": the case of Duru-Haitemba and Mgori Forests in Tanzania'. *Forest Participation Series No. 9*. International Institute for Environment and Development. London.
- Wily, L.A. 2001a. 'Forest laws. Tanzania gets it right'. *Ecoforum Long Rains 2001*, 35–38.
- Wily, L.A. 2001b. *Forest Management and Democracy in Eastern and Southern Africa: Lessons From Tanzania*. Gatekeeper Series no. 95.
- Wily, L.A. and P.A. Dewees 2001. *From Users to Custodians: Changing Relations between People and the State in Forest Management in Tanzania*. World Bank Policy Research Paper no. 2569. The World Bank. Washington, DC.
- Zulu, L.E.O.C. 2008. 'Community forest management in southern Malawi: solution or part of the problem?' *Society and Natural Resources*, 21, 687–703.

11. Rosewood democracy

Oliver Remy

Rosewood has become one of the most valued commodities on the global timber market due to a sharp escalation in Chinese demand for this particular group of hardwoods (Wenbin and Xiufang 2013). Forests throughout the tropics have suffered increases in selective logging rates and species endangerment (Treanor 2015). Malagasy rosewood – a group of endangered species primarily limited to Madagascar’s last remaining northeastern forest corridors – has been hit particularly hard. Following gradual logging increases throughout the early 2000s, the collapse of Madagascar’s government via a military-backed *coup d’état* in 2009 triggered an intensified outbreak of illegal logging in the country’s northeastern forest corridors (Global Witness and EIA 2009). As this chapter recounts, the revenues generated during this logging outbreak, combined with the country’s return to electoral politics at the end of 2013, have together facilitated the political ascendancy of an elite group of rosewood traders operating in northeastern Madagascar. In light of this political dynamic, the chapter demonstrates how the resurgence of the rosewood market since the early 2000s contributes to a unique brand of ‘rosewood democracy’ – characterized by pre-electoral boom and post-electoral bust – that has become one of the defining features of Madagascar’s political scene.¹

The rosewood trade in Madagascar provides an interesting case through which to interrogate the nexus of corruption and natural resources. As illustrated by the diverse contributions to this volume, the corruption-resource nexus ranges from a singular head of state personally monopolizing high-value resource exports (for example, oil and minerals) at one extreme, to a decentralized array of local bribery and misuse of subsistence resources (for example, forests and fisheries) at the other. Both extremes demonstrate that corruption, more than just an isolated practice in and of itself – a bribe, a favor, a lack of oversight – is rather a profound, and in its own way quite orderly, transformation of an otherwise legally sanctioned system. Corruption works *through* governance institutions – whether national or local – rather than despite or

against them. Aided by deep-rooted societal inequities, corruption molds and reconfigures institutions governing resource exploitation to benefit few at the expense of many. The case of rosewood, in particular, provides the opportunity to see this institutional transformation not so much at the national or local extreme exclusively, but through the muddled middle-ground where these two extremes blur – where local elites manage to step into the hotly contested terrain of national politics through a corruption of the electoral process that I refer to as ‘rosewood democracy’.

This chapter tells the story of rosewood politics since the beginning of the new millennium. It details the rise of an elite group of local rosewood traders (referred to herein as the ‘operators’) from northeastern Madagascar, some of whom have managed to leverage their millions made from the trade to become elected as members of Madagascar’s Fourth Republic in 2013, shaping the country’s rosewood policies now from *within* the central government. The chapter straddles the borders of corruption at the state and local levels, revealing how democratic institutions themselves can facilitate the political ascendancy of a profiteering local elite, given highly uneven geographies of power.

THE RESURGENCE OF ROSEWOOD

In the late 1990s, decades after the colonial logging initially responsible for Madagascar’s precious hardwood endangerment waned (Jarosz 1996), China began experiencing intense economic and cultural shifts that jolted the country’s demand for rosewood. A resurgence of classical aesthetics dating back to the Ming and Qing Dynasties reinvented rosewood furniture as a booming investment commodity in new millennial China (Yuan 2011). Chinese rosewood imports from across the tropics soared, with Africa providing an increasing supply (Wenbin and Xiufang 2013). In northeastern Madagascar, a renaissance in the rosewood trade was about to take place.

The combination of a devastating cyclone and upcoming presidential election in the early 2000s set the stage for Madagascar’s first major escalation in rosewood logging and exports in decades. In March 2000, Cyclone Hudah destroyed the majority of subsistence and cash crops covering prime rosewood territory. A flurry of salvage logging permits were issued in the wake of the cyclone and hundreds of aspiring loggers headed to the forest. The looming presidential election (to be held in December 2001) further facilitated the logging rush. Despite bans issued as logging surged in the aftermath of the cyclone,² a pre-electoral policy

of strategic neglect to appease constituencies in the northeast, combined with a four-month political stand-off due to contested elections, allowed the trade to continue. After Ravalomanana was declared by the High Constitutional Court to be the electoral victor, earlier trade restrictions were once again enforced.

The 2001 election cycle inaugurated what was to become a notorious sequence of pre-electoral trade permissions, followed by post-electoral prohibitions – the beginning stages of what was, by 2013, to develop into a full-fledged rosewood democracy. By 2004, another cyclone hit the region and the following year Ravalomanana faced re-election. More salvage permits were issued and workers returned to the forest. Despite some attempts to curb the logging,³ the Malagasy government capitulated to the ‘grievances’ of the rosewood operators and authorized the export of existing precious wood stocks (Memorandum 923/2005). Export permissions interlaced with a number of prohibitions demonstrated in their stark relief what has come to be the hallmark of the rosewood trade – a sequence of alternating enforcement and neglect that would last up until the complete dismembering of the government in 2009.

ROSEWOOD EXPLOSION

Clouds of black smoke loomed over the capital of Madagascar in a sudden outburst of political turmoil on January 26, 2009, later to be deemed ‘Black Monday’ (*lundi noir* or *alatsinainy mainty*). The tripartite ‘accumulation of darkness’ in the capital – the rising black smoke from scattered arsons throughout the city, the moral depravity of the looting crowds, and the obscurity through which a small group of ringleaders puppeteered the scene – lent the day its ominous title (Patrick 2010). In northeastern Madagascar, rioters were diverted to local offices of the Ministry of Environment and Forests, where hundreds of previously confiscated rosewood logs lay piled next to the building (Razafindramiadana 2009; Randriamalala 2011). The offices were looted and the confiscated logs were reclaimed in a fervent demonstration allegedly orchestrated by key rosewood operators (Global Witness and EIA 2009; Randriamalala and Liu 2010; Randriamalala 2011).

Sensing impending unrest, President Ravalomanana began relaxing rosewood export restrictions at least a week before Black Monday, likely as a means to garner allies and finance from the northeast (see the January 19, 2009 *conseil du gouvernement*). Then, two days after the Black Monday protests, Ravalomanana passed Interministerial Decree 003/2009, opening the exportation flood gates for thirteen specified

operators (see Global Witness and EIA 2009: 10 for a list of those specified) and officially sanctioning the rosewood bonanza that erupted in the wake of Black Monday. The political turmoil following Black Monday lasted just under two months, culminating in the military's seizure of the Presidential Palace and the forced installation of Andry Rajoelina – the opposition leader – as the new head of what was deemed the High Transitional Authority.

This series of export permissions, combined with the atmosphere of national chaos that accompanied the coup, together ushered in what would later come to be known in the northeast as the *lera ny bois de rose* – the time of the rosewood. During the two months of political unrest surrounding the coup, over 8,000 tons of rosewood logs were reportedly exported, yielding over USD 43 million in revenue for participating operators.⁴ Residents recalling those months note that radio ads and posters solicited young men with a sense of responsibility and adventure. Trucks with speakers drove around town announcing new work in the forest. Loggers made their way to Marojejy and Masoala National Parks by the thousands to join the trade.

While logging and export continued apace in the northeast, making the thirteen sanctioned rosewood operators millions, the recently installed transitional regime sought to secure its slice of the profits. Crippled with cuts of nearly 90 percent of international budget support because of the coup, the transitional regime was in desperate need of finance. In late 2009, the transitional regime permitted the operators to continue rosewood export, given fines that amounted to a 30 percent 'tax' on the trade (Interministerial Decrees 38244/2009 and 38409/2009). This move generated near-term revenues for the transitional regime of up to USD 40 million (see Figure 11.1 for a diagram of the financial flows of the trade).⁵

Together, the decrees made by Ravalomanana's crumbling administration and Rajoelina's newly installed transitional regime facilitated a protracted logging frenzy of questionable legality that continued largely unrestrained for one year. While these legal developments did authorize the export of existing stocks for certain key operators, they did not permit the massive logging efforts that nonetheless occurred within Masoala and Marojejy National Parks as a result. Thus, what ensued has been referred to as a 'revolving door' loophole, in which old stocks were replaced by newly cut logs, which could then be legally exported as 'old' due to lack of documented inventory (Global Witness and EIA 2009: 8; Salava 2009). In 2009 alone, over 1,000 shipping containers yielding at least 52,000 tons of precious wood was exported at a collective price of at least USD 220 million, likely much more (Randriamalala and Liu 2010).⁶

In rough corroboration, Global Witness and EIA (2009) estimate that the trade generated approximately USD 460,000 per day during this period of intensified logging and export (amounting to an approximate total of USD 168 million for the year) and the World Bank (2010) estimates that over a similar time period, 1,211 containers of precious wood equating to approximately USD 175.8 million were exported. Only after a flurry of articles exposing this devastation were published and international outcry surged, were the first steps toward market closure made.

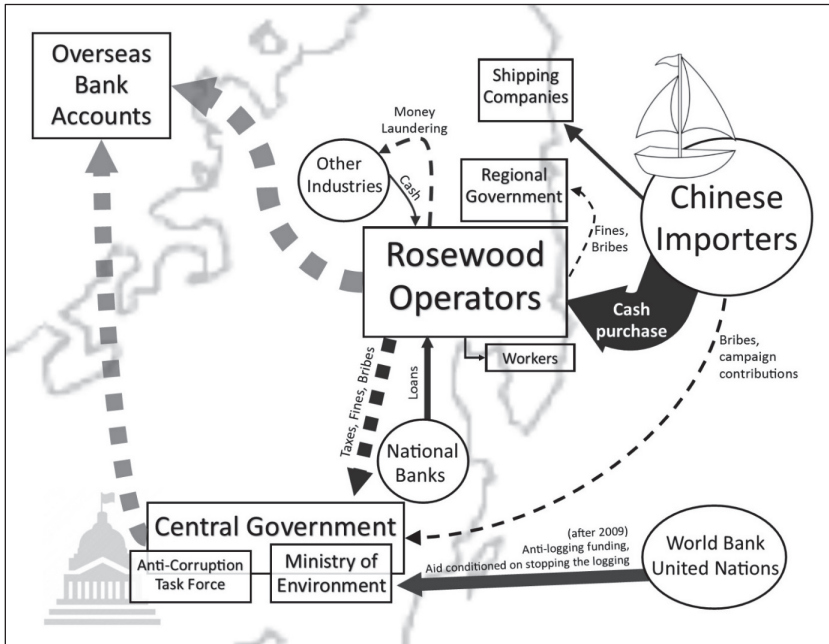


Figure 11.1 Map of financial flows and key players in the Malagasy rosewood trade

‘CLEANING UP’ THE TRADE

Pressured by growing international concern and donor conditionalities imposed by the United Nations and the World Bank,⁷ the transitional regime promulgated a *campagne d’assainissement* (clean-up campaign) for the precious woods sector. In August 2011, Rajoelina instituted the transitional regime’s most comprehensive anti-logging laws yet (Order

2011/001), prohibiting all operations, canceling all prior licenses and legislation, imposing heavy fines, and permitting little legal recourse. For nearly six months following the decree, the conservation community released a tentative sigh of relief. But then, in complete contradiction to this groundbreaking legislation, the Minister of the Environment issued a separate decree (0741/2012) authorizing the ministry to distribute new export licenses at its own discretion.

Through these contradictory decrees, the Malagasy government first appeased the international community by implementing draconian restrictions and briefly halting the trade entirely, and then, six months later, consigned another branch of government to selectively re-authorize export permits at its own discretion (Randriamalala 2012). From the outside (for example, international donors and disgruntled citizens that see few benefits from rosewood's illegal revenues) this 'clean up' appears as a 'crackdown' on the trade, stopping it entirely. Yet from the inside, it appears more as a governmental attempt to monopolize the trade, ensuring that only certain traders can continue to export while still providing the aura of a complete cessation. Indeed, as Randriamalala (2012) notes in his editorial concerning these contradictory decrees, the Malagasy government – intentionally or not – “cleaned up” the sector by taking full control’.

To enforce this and other attempted ‘clean ups’, national troops are sent to the northeast to halt the logging. While the most elite bosses, I am told, are informed well in advance, others are notified of the military's arrival by radio broadcasts throughout the region. Residents recall the chain of events: onlookers glance over as armed soldiers in large trucks drive down the road, headed to the logging villages, and know immediately that they are here for rosewood. They watch the procession, mumbling to one another as the trucks pass, *mitady vola ihany* – ‘they look only for money’. Messengers are sent to the forest to announce the military's arrival. Loggers and traders work all night to bury any logs in their possession and then pretend to be idle villagers. The military, of course, are not fooled by this mimicry, but for a small fee they can be assuaged.

Outraged by the military deployments, rosewood operators organized strikes protesting the intrusion. Over half a dozen strikes, I am told, have been held in the northeast to varying effect. A typical strike begins when key rosewood operators hold a meeting at the town hall. Strike organizers gather crowds from the city. Trucks are sent to the countryside and village leaders are paid to send their residents. Animated and entertaining, the rosewood operators speak of the government's abuse of power, its preposterous demand to halt the biggest source of revenue coming

from the region. The town hall overflows. Protesters then march to the center of town with signs of discontent. *Mody miaramila fa aminay aty milomina*: ‘Go home military, we are safe here’, the protesters write on large sheets of paper and chant in unison. Loggers, paid participants, and idle bystanders all partake in the commotion, while the rosewood operators watch from afar, occasionally paying shop-owners at the center of town to close their businesses as further testament to regional solidarity against the military ‘intrusion’.

Given these strikes and the financial losses from reduced rosewood exports, the transition government’s attempt to ‘clean up’ the trade – or perhaps rather to centralize it at the hands of only their allies – proved temporary. The gap between central politics and local power was simply too great to afford either side exclusive control for very long. After the election in 2013, however, that gap began to narrow.

PRE-ELECTORAL BOOM, POST-ELECTORAL BUST

The restrictions of the ‘clean up’ were abandoned during the pre-electoral period leading up to Madagascar’s first election since the coup five years earlier. The number of rosewood operators swelled from thirteen to well over one hundred as anyone with spare cash hurried to join the trade (Randriamalala 2013). Logs were delivered straight from the forest to Chinese ships arriving along the coastline, ready for purchase with Malagasy Ariary on board. Rosewood operators from all over the northeast courted voters with their newfound millions in an attempt to gain coveted parliamentary seats from each of the region’s districts. And, for the most part, it worked. Many of the elected parliamentarians from the northeastern districts were alleged to be involved in the rosewood trade – some quite deeply – and their favored presidential candidate, Hery Rajaonarimampianina, was elected President of Madagascar’s Fourth Republic.⁸

One of the most reported-on additions to the new government was a Member of Parliament from the northeast alleged to be involved with the rosewood trade ever since its resurgence in the early 2000s. Indeed, correctly or not, many residents of the northeast consider this newly elected parliamentarian to be the number one player in the rosewood business – one of the *first* traders initially involved in the business and currently one of the *last* traders through whom all the rosewood circulates before leaving the country. In addition to financing his own campaign, he was reportedly one of President Hery’s ‘principal sponsors’ during the election, avidly campaigning for Hery and providing hefty

financial contributions (Ravelontsalama 2014). This particular parliamentarian, along with a few others from the northeast, also reportedly formed a political party (the Union of Independent Deputies) with the newly appointed Minister of the Environment, who is alleged to have similar connections with the trade (EIA 2014). Given the Minister's reported involvement with the rosewood trade (*TanaNews* 2014a), his nomination as one of the chief environmental regulators of the country was both ironic and unsurprising. Together, these new members of government have formed a powerful coalition for potentially centralizing the rosewood trade within the new government.

Following the election was the largest consolidation the rosewood market has yet seen. The pre-electoral boom had left the market in competitive disarray. Under such extravagant competition, the final buying price of rosewood leaving Madagascar dropped, while wages for rosewood work in the forest peaked. Better for workers, worse for the operators, a post-electoral market consolidation was in order. And with some of the biggest operators now working from within the government, this was made easier than ever before. Just months after his installation in office, President Hery sent troops to the northeast, shutting down all but a small subset of operations. Thousands of loggers returned from the forest. Rosewood exports, loggers returning from their work in the forest assured me, were now restricted to only those circuits of the newly elected parliamentarians and their allies in the northeast. This extreme bottleneck caused the price of rosewood sold *within the region* to plummet (to an average of 2,000 Ariary per kilogram, as opposed to more than four times that at its peak), while the price of rosewood *at export* was rumored to have soared.

Both the operators' and the government's involvement with the trade, although certain in some respects, remains in a legal gray area. Although names of past rosewood operators are well-documented, as are many of their positions now within the government, determining the (il)legality of their participation in the trade remains elusive. Given the series of alternating permissions and prohibitions that has characterized the trade for nearly the past two decades, assigning legal blame for export is nearly impossible (Global Witness and EIA 2009).⁹ While this legal confusion has been significantly reduced since 2013, when international trade in rosewood from Madagascar became prohibited under CITES Appendix II, various international rosewood seizures nonetheless demonstrate that shipments continue to flow overseas.¹⁰ Moreover, in 2014, the Minister of the Environment traveled to the largest seizure site (nearly 30,000 logs seized in Singapore) and confirmed to the proper authorities that these

logs were in fact shipped legally – an impossible confirmation given the CITES ban.¹¹

While such actions suggest some degree of government involvement with the trade, the specifics remain thin speculations. Although Malagasy news outlets frequently remark on potential government involvement – with accusations ranging from the biggest operators’ names, to the newly elected parliamentarians, to other members of government, to even the President¹² – the accused all ‘seem to remain untouchable, due to insufficient evidence’ (Andriamarohasina 2016). Indeed, in a situation where, as I am told, Malagasy journalists come to the region only in search of bribes *not* to write a story and would be ‘committing suicide’ (*hamono tena*) if they partook in any actual reporting, there is little definitive proof of much anything.¹³ And given the apparent power of the government to momentarily determine what is and is not legal with respect to the rosewood trade, one must question whether ‘cleaning up’ the sector can be achieved through any sort of legal revision at all, or if it rather requires a much deeper confrontation with the underlying disparity of power that permits the law to be so easily manipulated by the interests of an elite few.

CONCLUSION

The cycle of pre-electoral boom and post-electoral bust that has characterized the rosewood market since the new millennium exacerbates a tumultuous domestic politics. Rosewood politics is characterized by extreme fluctuation in resource controls imposed by a volatile state desperate to appease the population and international community on the one hand, and monopolize cash flow on the other. This chapter has demonstrated that not only did elite rosewood operators in the northeast influence the state to secure the intermittent opening of the export market after the coup, but also, since the 2013 election, some operators have themselves become part of the government, securing their direct involvement with national rosewood policies. While this transformation has potentially permitted certain rosewood-operators-turned-parliamentarians and government officials to shift from a position of external state capture to internal control, any attempted market monopolization appears tenuous at best. Rumbblings of unrest are already surfacing as rosewood logs from those operators now shut out of the trade pile up across the region.

The rosewood trade in Madagascar and the type of ‘rosewood democracy’ it has inspired offers a window into how the electoral process plays out in a landscape of vast inequity. In a single election cycle, an elite few

leverage their collective billion made from the trade in order to step into the national political arena and, potentially, control the market such that they can make even more. Here, the electoral process does not so much level the playing field, but merely contours – even exaggerates – its highly uneven topography. This scene is indeed characterized by corruption, but a form of corruption much less amenable to superficial reforms that target discrete practices such as bribery or favoritism. Instead, the very democratic institutions that are themselves supposed to foster equality have been captured to sustain longstanding patterns of inequality.

NOTES

1. Randriamalala and Liu (2010) make a similar observation when they write that, ‘we can already conclude that rosewood now regularly finances a type of Malagasy “democracy”’ (translated from French, p. 28). In a later article, Randriamalala (2012) refers to this as ‘*la bolabolacratie*’, joining the French word ‘*démocratie*’ and a regional word for rosewood logs, ‘*bolabola*’.
2. Order 11832/2000 and Order 12704/2000.
3. Regional decree 001 2005 REG/SAV, cited in Patel (2007).
4. Randriamalala (2011) provides this approximation of logs exported. The price calculation is my own, using the average sale price of USD 6/kg at export (as estimated by Randriamalala and Liu 2010).
5. World Bank (2010) estimates that the transition government received from USD 18 to USD 40 million in imposed fines between September 2009 and March 2010 alone (amounting to approximately 5 to 10% of the government’s revenue in 2009).
6. The report estimates that over 75% of this total has been kept as profit by the rosewood operators, while roughly 15% has been paid in taxes to the state, 6% paid to mid-level traders to purchase the wood, and less than 1% paid for transport and handling. The report also estimates that up to USD 52 million of rosewood earnings have been delivered to overseas bank accounts and have yet to be repatriated to Madagascar.
7. The World Bank approved a USD 52 million grant to fund conservation given the explicit condition that legislation concerning logging was enforced. The UNESCO Committee for the World Heritage issued recommendation F 35 COM 7A.10, calling on the Malagasy government to take control of the logging in the northeast.
8. Accusations suggesting one or more members of the new government have been involved in the rosewood trade are many. For some of the most prominent in press, see Midi (2015). Locally, the majority (but not all) of government representatives from the northeast have been accused of involvement with the trade.
9. The President of the Courts of Justice in one northeastern city ‘affirmed that “serious legal uncertainty” has resulted in several dismissals of charges brought against exporters and officials by the MEF’ (Global Witness and EIA 2009: 11).
10. Some of these seizures even contain logs marked as already ‘confiscated’ by the Malagasy government prior to shipment (EIA 2014).
11. L’Express (2016) and Ranaivoson (2016) report on the issue. The new Minister of Environment has since denied the legality of the shipment, contradicting the former Minister’s confirmation. The court case is in appeals.
12. See, for example, *TanaNews* (2014b), suggesting a potential connection between rosewood operators and the President.
13. Indeed, prominent arrests concerning rosewood are neither of operators, nor government officials, nor operators-turned-officials, but of the few locals who have spoken out about

the trade and facilitated its international exposure. For example, one local assisting international reporters was imprisoned in 2014 and another now lives in exile in Germany. Another local was imprisoned in 2015 for similar reasons (Gerety 2015).

REFERENCES

- Andriamarohasina, S. 2016. 'Trafic de bois rose – Le verrouillage aux ports amplifie la sortie clandestine des rondins'. *L'Express De Madagascar*, April 13.
- EIA. 2014. The Ongoing Illegal Logging Crisis in Madagascar. An EIA briefing for CITES SC65.
- Gerety. 2015. 'Activist arrested while illegal loggers chop away at Madagascar's forests'. *Mongabay*, September 15.
- Global Witness and EIA. 2009. *Investigation into the illegal felling, transport, and export of precious wood in SAVA region Madagascar*. Global Witness and Environmental Investigation Agency (EIA). London.
- Jarosz, L. 1996. 'Defining deforestation in Madagascar'. In R. Peet and M. Watts (eds) *Liberation Ecologies: Environment, Development, Social Movements*: 148–164. Routledge. London and New York.
- L'Express. 2016. 'Le périple illicite des bois de rose de Singapour'. *L'Express De Madagascar*, February 26.
- Midi. 2015. 'Omer Beriziky: Des candidats HVM dans la liste des trafiquants de bois de rose'. *Midi-Madagasikara*, November 27.
- Patel, E. 2007. 'Logging of rare rosewood and palisandre within Marojejy National Park, Madagascar'. *Madagascar Conservation and Development*, 2(1): 11–16.
- Patrick, A. 2010. 'Un an de désastres'. *Madagascar Tribune*, January 26.
- Ranaivoson, G. 2016. 'Dossier Singapour – Ramparany tait les questions sensibles'. *L'Express De Madagascar*, March 11.
- Randriamalala, H. 2011. 'Rosewood chronicles'. *Illegal Logging Portal*, August 22.
- Randriamalala, H. 2012. 'La "bolabolacratie"'. *Madagascar Tribune*, March 1.
- Randriamalala, H. 2013. 'Étude de la sociologie des exploitants de bois de rose malgaches'. *Madagascar Conservation and Development*, 8(1): 39–44.
- Randriamalala, H. and Z. Liu 2010. 'Bois de rose de Madagascar: entre démocratie et protection de la nature'. *Madagascar Conservation and Development*, 5(1): 11–22.
- Ravelontsalama, S. 2014. 'Bois de rose: 62 conteneurs saisis au Kenya et au Sri Lanka'. *La Gazette*, May 30.
- Razafindramiadana, L. 2009. 'Abus dans l'exportation de bois'. *L'Express De Madagascar*, January 24.
- Salava, H. 2009. *L'exploitation illicite du bois de rose dans le Parc National de Masoala: Un pillage sans précédent depuis la création du parc*, April 9.
- TanaNews. 2014a. 'Anthelme ramparany: une ministre de trafic du bois de rose?' *TanaNews*, April 22.
- TanaNews. 2014b. 'Trafiquants de bois de rose: que fabrique Hery Rajaonarimampianina?' *TanaNews*, May 9.

- Treanor, N.B. 2015. 'China's Hongmu consumption boom'. *Forest Trends Report Series*, December.
- Wenbin, H. and S. Xiufang 2013. 'Tropical hardwood flows in China: case studies of rosewood and okoumé'. *Forest Trends*, 1.
- World Bank. 2010. *Governance and Development Effectiveness Review: A Political Economy Analysis of Governance in Madagascar*. Report No. 54277-MG. The World Bank. Washington, DC.
- Yuan, L. 2011. 'Everything old is new again: classical Chinese furniture.' *China Today*, November 17, 38–41.

12. How corruption enables wildlife trafficking

Tanya Wyatt

The illegal trade of wildlife, or wildlife trafficking, has been happening for many years. Recently though, with the highly publicized and rampant poaching of elephants and rhinoceros and the realization that wildlife trafficking is one of the leading threats to the survival of species all over the globe, it is garnering more attention from global society. Numerous concerted efforts are being made to stop the killing before it is too late,¹ but in order to do this effectively, it is essential to understand how wildlife trafficking takes place. Corruption has been found to be a major feature facilitating wildlife trafficking (Brack and Hayman 2002; Duffy 2014; EIA 2013; Elliott 2007; IFAW 2013; UNODC 2009; WWF/Dalberg 2012; Wyatt 2013). It is a key component enabling wildlife to be poached, smuggled and sold. This chapter details the corrupt actors along the smuggling chain as well as the forms of corruption they employ to launder and hide wildlife whilst buying off and/or deceiving law enforcement. Future avenues for research and possible solutions are also offered, that aim to help limit corruption and protect wildlife. First though, a brief overview of wildlife trafficking in general.

Wildlife trafficking is the illegal trade of animals and plants – both living and products made from them (Wyatt 2013). This is illegal because it violates local and national laws and/or international conventions on hunting and trade, particularly the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are in place to protect wildlife from overexploitation and possible extinction. Nearly every species is subjected to some level of trade, so the diversity of this black market is extensive. Estimates for the amount of annual criminal profit vary, but are thought to be between USD 10 and 20 billion a year (Fison 2011). This figure does not include estimated criminal profits from illegal timber trade and illegal fishing.² The International Union for the Conservation of Nature's (IUCN 2014) Red List categorizes species based upon their conservation status, such as critically

endangered, endangered, or threatened. In 2014, intentional hunting and trapping of terrestrial mammals (not reptiles or other vertebrates) threatened the status of 2,536 species (IUCN 2014). Admittedly, trafficking is only a part of this, but does contribute to species decline. With so many species facing pressure on their population numbers from hunting, trade and trafficking, it is important to discover how this happens. One crucial element, as mentioned, to such an investigation is the role of corruption in wildlife trafficking.

THE ROLE OF CORRUPTION IN WILDLIFE TRAFFICKING

Wildlife trafficking is a crime with multiple stages. Once demand for an animal (plant or derivative) is known, they will be poached or captured. After being killed or captured, the wildlife will then be smuggled or transported by fraudulent means to wherever they will be sold. The stages will differ if the wildlife is manufactured into a product and the techniques used may change depending on whether or not the wildlife is alive. For example, criminal syndicates working in Africa know of the demand for rhino horn in Vietnam. Rhinos are poached in southern Africa and smuggled by bribing law enforcement and transportation officials and by hiding them in cargo on ships or planes through transit areas like Singapore or Hong Kong and then arriving in Vietnam (Milliken and Shaw 2012). A trip like this entails numerous people and various forms of transport as well as employing a variety of techniques for hiding the wildlife (Wyatt 2013).

Corruption on its own is not a driver of wildlife trafficking (as motivations for trafficking wildlife – and committing other crimes – are economic, cultural and social in nature) (Albanese 2011; Nowell 2012; Wellsmith 2011). But corruption does facilitate the capture or movement of wildlife at all of the stages just mentioned – poaching, smuggling and selling (for an extensive literature review, see Wyatt and Cao 2015). Research has found that ‘poaching tends to thrive in places where corruption is rife, government enforcement is weak and there are few alternative economic opportunities’ (WWF/Dalberg 2012: 14). Similarly, TRAFFIC (2008), an NGO dedicated to monitoring wildlife trade, has found that the key factors in countries where wildlife is trafficked are weak governance, corruption and the lack of rule of law. Corruption most likely then exists where there is the combination of little or no oversight on powerful institutions (including the government), non-transparent processes related to resource allocation and accountability, weak civil

society and widespread poverty (WWF/Dalberg 2012). Too much discretion on the part of those in positions of power, governmental or otherwise, is another contributor to corrupt practices (Klitgaard 1988).

In wildlife-rich countries where these conditions exist, the wildlife is the 'resource' at stake in what Kolstad and Søreide (2009) call 'rent-seeking' and 'patronage'. In terms of rent-seeking, corrupt actors fight for the profits derived from wildlife trafficking and in terms of patronage, corrupt actors use the profits from the wildlife, or giving access to the wildlife, to maintain their power. As Kolstad and Søreide (2009: 219) propose, 'Given the potentially significant impact on profits combined with the many ways of hiding transfers, the incentives – and risk – for grand and bureaucratic corruption are present in most resource-rich countries'. These forms of corruption are similar to those proposed in Table 12.1, which outlines who the corrupt actors are as well as the methods of corruption they use.

Corruption is not limited to the public sphere. Private sector employees also engage in corrupt practices, such as accepting or giving bribes in order to smuggle wildlife. It is also not only frontline public sector employees who are corrupt, but also officials in the top levels of governments. Wyatt and Cao (2015) found that the range of actors listed in Table 12.1 undertake five different types of corrupt acts (listed alphabetically) to enable them to traffic wildlife. The most prevalent of these acts is bribery, which can buy a variety of outcomes including law enforcement turning a blind eye to illegal wildlife trade, access to protected wildlife, the re-direction of police patrols and so forth. For example, a bribe to a park ranger may give a poacher entry into a protected area. The next two types of acts are diplomatic cover and ill-gotten permits. The former is when government officials use their position to smuggle wildlife. Diplomats have been implicated in smuggling both rhino horn (EIA 2013) and elephant ivory (Lemieux and Clarke 2009) using protected diplomatic post. If corrupt officials have access to the permits regulating the legal wildlife trade, this enables illegal wildlife to be laundered and smuggled using the legal system. The documentation can be falsified to show different unprotected species, fewer individuals than in the cargo, that the wildlife was bred in captivity rather than taken from the wild and so forth. For example, a journalist from the Vietnamese newspaper *Tien Phong* uncovered smuggling of hundreds of primates from Laos into Vietnam through the use of permits, which had the quantity of traded primates changed so that thousands more primates could be transported without paying taxes (Wyatt and Cao 2015).

Table 12.1 The actors and acts of corruption in wildlife trafficking

The Corrupt Actors				
Private Sector	Transportation employees, wildlife-related businesses and industries			
Public Sector	Border guards, customs agents, forest officers, game rangers, judiciary, legislators, park rangers, police, politicians, prosecutors, regulators			
The Corrupt Acts				
Bribes	Diplomatic Cover	Ill-gotten Permits	Patronage	Threat of Force
<ul style="list-style-type: none"> • Allow access to wildlife • Draft weak legislation • Fraudulent permits • Gift giving to individuals and groups • Interfere with normal operations • Leak intelligence (patrols, raids) • Lenient sentences • Mishandle evidence • Not conduct investigations • Not stop poaching • Re-direct patrols • Smuggle • Steal confiscated wildlife • Turn a blind eye 	<ul style="list-style-type: none"> • Smuggle 	<ul style="list-style-type: none"> • Mis-declare volumes and values • Misidentify species • Mislabel captive bred for wild caught • Recycle legal permits • Sell export, import and/or hunting permits • Steal permits and CITES documentation 	<ul style="list-style-type: none"> • Allow access to wildlife • Draft weak legislation • Fraudulent permits or unfair allocation • Gift giving to individuals and groups • Interfere with normal operations • Leak intelligence (patrols, raids) • Lenient sentences • Mishandle evidence • Not conduct investigations • Not stop poaching • Re-direct patrols • Smuggle • Steal confiscated wildlife • Turn a blind eye 	<ul style="list-style-type: none"> • Allow access to wildlife • Extort permits • Turn a blind eye

Similar to bribery, patronage – not to be confused with Kolstad and Søreide's (2009) use of the word – is where the corrupt actor's actions benefit someone in their close social or family network (Singh et al. 2006). This is also referred to as clientelism (Passas 1998) or cronyism (Klitgaard 1988). An example is a police officer may steal confiscated wildlife for a friend or family member or not conduct an investigation against someone in their social network. Some officials, particularly law enforcement, may act corruptly because they or their families are being threatened.

Bribery, falsified permits and patronage facilitate all stages of trafficking – from the initial poaching or capture, through smuggling to the final selling of the wildlife. Threats of force to make officials act corruptly are used in the first two stages regarding poaching and smuggling and diplomatic cover is only used to enable smuggling. As presented earlier, these actors and their corrupt acts mostly take place within the context of weak governance without oversight, poverty and a limited civil society. With these connections in mind, the final section of this chapter proposes some avenues for future research and possible solutions.³

ADDRESSING CORRUPTION AND WILDLIFE TRAFFICKING

To truly tackle corruption and associated crimes, it is essential to take a multifaceted approach and one that addresses the specific challenges of the resource in question (Kolstad and Søreide 2009). In the case where corruption facilitates wildlife trafficking, there is still much speculation so more research and evidence is required. With that in mind the following are potential solutions which should be explored further. The areas for such exploration are improvements to state governance, the criminal justice system and to the monitoring and accountability of both. Additionally, in regards to wildlife trafficking it is crucial to reduce the demand for and consumption of wildlife that is being overexploited. Not only does this attitude need to be challenged, but so does the attitude towards corruption itself.

State Governance

Money laundering, corruption and bribery are core elements to wildlife trafficking and other crimes. These acts in and of themselves should be criminalized in countries' penal codes to not only send a message that these crimes will not be tolerated, but to give law enforcement and the

judiciary tools to combat corruption. Alterations to legislation and to the penalties given for crimes – wildlife and others – ought to be grounded in evidence that the changes being made will help to combat and/or reduce the action targeted. For instance, increasing the cost of hunting permits may prompt more people to poach because they can no longer afford to do it legally (Wyatt 2013). The press needs to be free from government interference, so they can be a critical voice speaking out against poor governance. Government employees and others who witness corruption have to be able to come forward without fear of retaliation. Whistle-blowing protection structures therefore need to be in place.

Criminal Justice Systems

Law enforcement officers – police, border guards, customs agents and so forth – can often be the corrupt actor. In terms of those policing wildlife and other environmental crimes, increasing their status may help combat this. If they are not seen as ‘second-class’ officers and environmental crimes are more of a priority, this may help lift morale (Nurse 2015). Police and regulators also need support in improving their knowledge of accounting and forensics as well as in obtaining better equipment. Law enforcement should be encouraged to form multi-agency task forces with international cooperation. This would provide additional support as well as additional expertise, such as in regards to money laundering. More research must be done to determine how to combat the propensity for corruption of individual officers (and collective groups) in specific cultural contexts. As found in Vietnam, some officers were drawn into corruption by their colleagues (Wyatt and Cao 2015). This would entail investigating work patterns, salaries and incentives. All law enforcement agencies ought to have in place independent accountability measures for the agency as well as for individual officers, and those found to be corrupt should be subjected to asset forfeiture and repatriation (in instances where the proceeds are sent abroad).

Monitoring and Accountability

As mentioned, independent accountability of law enforcement is crucial to combat corruption. Additionally, independent monitoring of wildlife management and banking is also needed. This would include transparent permit and banking systems with independent audit trails. The same is true for organizations that are lobbying the government in this case in regards to wildlife legislation.

Demand Reduction and Challenging Corruption

If there was no demand for wildlife, wildlife would not be a resource that would tempt people in influential positions to illegally profit from it. Part of the equation then in tackling wildlife trafficking, is to try to reduce the demand. This means campaigns and projects to challenge people's consumption of wildlife. People's attitudes towards corruption also need to be challenged to help break the cycle of 'systemic' acceptance of corrupt ways of doing things (Kolstad and Søreide 2009).

CONCLUSION

Decreasing corruption is essential for saving numerous species of wildlife from extinction. This may in part be accomplished through a multifaceted approach that roots out corruption throughout the sectors in society linked to wildlife, but with so little evidence much more research should be done to support prevention strategies for both corruption and wildlife trafficking and the links between the two.

NOTES

1. For instance, US President Obama's Executive Order to Combat Wildlife Trafficking, the British Royal family's creation of the charity United for Wildlife, and the 2015 UN General Assembly resolution to tackle the illicit trade in wildlife.
2. Interestingly, timber and fish are present in the research around the 'resource curse' of resource-rich developing nations (Kolstad and Søreide 2009), whereas wildlife, if only terrestrial animals and marine mammals are considered (which is the focus of this chapter), seem not to be considered in the same vein. This may be because the profitability from such wildlife is much less than that from other 'natural resources' like timber and oil or that these species of wildlife are not as obtainable because of their scattered distribution (Kolstad and Søreide 2009).
3. These solutions are adapted from recommendations made to donor agencies in Wyatt and Cao (2015).

REFERENCES

- Albanese, J. 2011. *Transnational Crime and the 21st Century: Criminal Enterprise, Corruption, and Opportunity*. Oxford University Press. New York.
- Brack, D. and G. Hayman 2002. *International Environmental Crime: The Nature and Control of Environmental Black Markets*. Royal Institute of International Affairs. London, www.chathamhouse.org/sites/files/chathamhouse/public/Research/Energy,%20Environment%20and%20Development/environmental_crime_background_paper.pdf (accessed 2 October 2014).

- Duffy, R. 2014. 'Waging a war to save biodiversity: the rise of militarized conservation'. *International Affairs*, 90(4), 819–834.
- EIA. 2013. *Vietnam's Illegal Rhino Horn Trade: Undermining the Effectiveness of CITES*. Environmental Investigation Agency (EIA). London.
- Elliott, L. 2007. 'Transnational environmental crime in the Asia Pacific: an "un(der)securitized" security problem?' *The Pacific Review*, 20(4), 499–522.
- Fison, M. 2011. 'The £6bn trade in animal smuggling'. *The Independent*, www.independent.co.uk/environment/nature/the-1636bn-trade-in-animal-smuggling-2233608.html# (accessed 11 February 2013).
- IFAW. 2013. *Criminal Nature: The Global Security Implications of the Illegal Wildlife Trade*, www.ifaw.org/sites/default/files/ifaw-criminal-nature-2013-low-res_0.pdf (accessed 2 October 2014). International Fund for Animal Welfare. Yarmouth Port, MA.
- IUCN. 2014. *The IUCN Red List of Threatened Species. Version 2014.2*, www.iucnredlist.org (accessed 10 October 2014). International Union for the Conservation of Nature (IUCN). Gland.
- Klitgaard, R. 1988. *Controlling Corruption*. University of California Press. Berkeley, CA.
- Kolstad, I. and T. Søreide 2009. 'Corruption in natural resource management: implications for policy makers'. *Resources Policy*, 34, 214–226.
- Lemieux, A. and R. Clarke 2009. 'The international ban on ivory sales and its effect on elephant poaching in Africa'. *British Journal of Criminology*, 49, 451–471.
- Milliken, T. and J. Shaw 2012. *The South Africa-Viet Nam Rhino Horn Trade Nexus: A Deadly Combination of Institutional Lapses, Corrupt Wildlife Industry Professionals, and Asian Crime Syndicates*. TRAFFIC. Johannesburg.
- Nowell, K. 2012. *Wildlife Crime Scorecard: Assessing Compliance with and Enforcement of CITES Commitments for Tigers, Rhinos and Elephants*. World Wildlife Fund. Gland.
- Nurse, A. 2015. *Policing Wildlife: Perspectives on Criminality in Wildlife Crime*. Palgrave Macmillan. London.
- Passas, N. 1998. 'A structural analysis of corruption: the role of criminogenic asymmetries'. *Transnational Organized Crime*, 4(Spring), 42–55.
- Singh, S., R. Boonratana, M. Bezuijen and A. Phonvisay 2006. *Trade in Natural Resources in Attapeu Province Lao PDR: An Assessment of the Wildlife Trade*. TRAFFIC MWBP. Vientiane.
- TRAFFIC. 2008. *What's Driving the Wildlife Trade? A Review of Expert Opinion on Economic and Social Drivers of the Wildlife Trade and Trade Control Efforts in Cambodia, Indonesia, Lao PDR, and Vietnam*. TRAFFIC International and The World Bank. London and Washington, DC.
- UNODC. 2009. *Organised Crime and Trafficking in Eastern Africa: A Discussion Paper*. United Nations Office of Drugs and Crime. Nairobi.
- Wellsmith, M. 2011. 'Wildlife crime: the problems of enforcement'. *European Journal on Criminal Policy and Research*, 17(2), 125–148.
- WWF/Dalberg. 2012. *Fighting Illicit Wildlife Trafficking: A Consultation with Governments*. WWF International. Gland.
- Wyatt, T. 2013. *Wildlife Trafficking: A Deconstruction of the Crime, the Victims and the Offenders*. Palgrave Macmillan. Basingstoke.

Wyatt, T. and A. Cao 2015. *Corruption and Wildlife Trafficking*. U4 Issue Paper No. 11. U4 Anti-Corruption Resource Centre. Chr. Michelsen Institute. Bergen.

13. Urban land: a new type of resource curse?

Dieter Zinnbauer¹

Urbanization is one of the defining dynamics of our times. The world is becoming more urban, cities are growing fast, and pressures on land resources in urban and peri-urban areas are rising rapidly, often exponentially in many regions.

As a result, urban land governance is one of the central challenges not just for urban but also more broadly for global development. As will be elaborated below, this challenge can be interpreted as a potential ‘urban land resource curse’. So far, the prism of a resource curse has primarily been applied at the national level with regard to the stewardship of a country’s resources – especially extractive sectors – by national governments and to my knowledge the issue of urban land has never been approached from a resource curse vantage point.²

Yet, as the following analysis finds, a number of features of urban land markets and management exhibit striking parallels with, or even exceed in complexity and acuity, a set of core characteristics commonly associated with classic resource curse situations. What’s more, a resource curse situation in a number of urban land markets also appears to be directly linked to, and a knock-on effect of, some conventional resource curses when illicit commodity fortunes are re-invested in urban property as a popular asset class for money laundering.

ESCALATING DEMAND: SKYROCKETING PRICES AND FORMIDABLE OPPORTUNITIES FOR PUBLIC REVENUE OR PRIVATE ENRICHMENT

Rapid urbanization with a more than 70 per cent increase of the global urban population expected by 2050 from today’s levels will continue to fuel demand for urban land and expansion of cities into peri-urban areas. Urban land cover typically grows twice as fast as urban populations, and

cities in developing countries are expected to triple in spatial size by 2030 as compared to 2000 (Angel et al. 2011).

As a result, the value and rapid appreciation of urban land have evolved into one of the most important sources of income for local administrations. Local governments in China, for example, are estimated to derive on average 38 per cent of their total revenues (equalling close to 80 per cent of extra-budgetary sources) through the sale of land use rights (Chen and Kung 2014). Auctions of desert land in Egypt for new city development accounted for 10 per cent of total national government revenue in 2007 (Peterson 2009). In India, Mumbai property values quintupled between 1986 and 1998, while land sales in its new financial centre brought in the equivalent of 10 years of capital spending for the city (Mukhija 2003).

And even where it is not about land sales, but only about capturing some share of the skyrocketing value of urban land through taxation, the amounts that can be realized are enormous. So-called betterment levies in Bogota, for example, brought in USD 900 million in 2007 and have provided up to 25 per cent of annual revenues of major Colombian cities for decades, while Brazilian municipalities quadrupled their average intake from land taxation by simply updating the underlying land values (McKinsey 2011; Peterson 2009; Reydon and Oliveira 2012; Walters 2012; Smolka 2013). Summarizing the evidence of a recent voluminous compendium of related reports on land issues in a set of countries that capture some land value appreciation for the public purse, UN-HABITAT concludes that typically in these countries 40–60 per cent of local government revenue is land-related (UN-Habitat 2011).

SPECULATIVE OVERDRIVE AND THE ENSUING DIFFICULTY TO SPOT INSIDE JOBS AND OUTSIDE MANIPULATIONS

High demand for urban land and upward pressure on related prices is further amplified by rampant speculation. Land, as a finite and non-reproducible resource, has evolved into a major asset class for financial speculation. Both old wealth and new money are pouring into these markets that promise much better returns and lighter taxation than most other investment options. Corporate purchases of existing properties in the top 100 recipient cities alone is estimated to have totalled USD 600 billion in 2013/14, a remarkable number that jumped even higher to an

astounding USD 1 trillion only a year later (Cushman and Wakefield 2015; Sassen 2015).

This massive speculative engagement in generally thin local property markets has resulted in major price hikes and large swings in valuations. These wide fluctuations make it arguably more difficult to detect abnormal manipulations and trading on insider information than is the case in much deeper and more liquid stock or commodity markets.

It is also important to note that these speculative price hikes are not confined to a handful of world cities in advanced economies, but that investors and speculators increasingly turn their attention to emerging and frontier markets for urban land and property. Related industry reports, for example, note that Africa is bucking the trend of slowing foreign direct investments and that sub-Saharan Africa is emerging as a high-growth zone. As a result, for example, five African property markets are ranked among the top ten most dynamic emerging markets for commercial real estate and property investments (Cushman & Wakefield 2015; Jones Lang LaSalle 2015) and a significant number of Chinese and other Asian cities populate the top 100 high-growth urban property markets.

A WEAK GOVERNANCE BASE: OPAQUENESS AND A TRACK RECORD OF ENDEMIC CORRUPTION

Most of the available evidence suggests that existing urban governance systems are ill-equipped to manage this wealth accountably through sound decision-making, registration, taxation and related accounting practices.

Red tape is ubiquitous and transparency largely absent. Eight out of the 20 most rapidly urbanizing countries rank in the bottom quartile of all countries globally in terms of bureaucratic hurdles to registering property. Only half of these 20 countries make fee information for property transfers available through brochures or noticeboards, and as few as five provide this information online.³ At the heart of the problem is what is often referred to as a land regulation crisis: as few as 30 per cent of plots in developing countries are estimated to be formally registered (Sioufi 2011).

Against this backdrop of immense values to be managed within the context of normatively rather dysfunctional and often self-serving systems, it is not surprising that there seems to be a never-ending stream of corruption cases as alluded to earlier. The often lurid details that have come to light provide a glimpse into the lows of insidiousness and

ingenuity to which corruption in urban land sales and development descends, from using prostitutes to blackmail public officials into land sales in China, to deeply interwoven urban development rackets between police, politicians and organized crime in Mumbai and many Italian cities (New Yorker Daily Comment Blog 2011; Weinstein 2008). Beyond the abundance of related case studies, macro-level evidence points in the same direction. Survey data also suggests urban land governance is riddled with corruption down to the retail level. Globally, a remarkable one in five people reported to have been asked for bribes when using land registration services (Transparency International 2013). Half of the 10 fastest growing megacities are in countries with serious corruption issues in land registration. A whopping 88 per cent of respondents to a recent online poll in India indicated that it is impossible to register land without paying bribes.⁴

COMPLEXITIES AND RENT-OPPORTUNITIES: OF URBAN PLANNING AND POLICIES

Unfortunately, the management processes and related public policies to turn commodity value into government income are much less straightforward in urban planning and land management than they are in conventional natural resource extraction.

In most key natural resource markets the related commodities are relatively well-defined, their valuation is quite directly shaped by what are typically openly available market prices, and it is at least in principle, although often still not in practice, possible to track who gets what share of the cake and to what extent the public benefits. In contrast, these issues are much more complex, indirect and subjective in the area of urban land governance. Starting at the most fundamental level, even putting a value on urban land and charting related price trends is all but impossible for many urban land markets in developing cities, since most transactions are shrouded in opacity and sufficient market data is simply still not available.

In addition, ascertaining which planning decisions are truly in the public interest is difficult at best and often near to impossible. Competing interests at stakeholder level are mirrored and further fuelled by a profound plurality of normative notions and ambitions for urban planning and urban development: attracting foreign direct investment; protecting and nurturing local champions; focusing on pro-poor livelihoods; prioritizing resilience; flexible adjustment; participatory templates; long-term planning certainty; and density or proactive greenfield development to

name just a few. Consequently, there are reasonable disagreements about the most appropriate development models that at the same time can serve as a convenient veneer to dress and cover up particularistic rent-seeking in public interest jargon.⁵

Tracing who is benefitting can be equally treacherous for the non-specialist when faced with a large menu of rules and regulations that work their way indirectly and are mediated through socio-economic and spatial dynamics into the valuations of land and profitability of specific property holdings. And apportioning responsibility or finding proof for malicious intent is further complicated even in a perfectly transparent planning environment due to significant professional discretion underpinning valuations and a very wide spectrum of potentially defensible planning decisions (Dodson et al. 2006; Sberna and Vannucci forthcoming; Phan 2005). All this makes urban planning and zoning a coveted entry point for corrupt actors to manipulate decisions to their own advantage. The very few available studies that have looked at the risks of corruption in urban planning corroborate the emerging picture. More than a quarter of public corruption cases that the news media reported on in Italy between 1970 and 1986 related to building permits. More than 20 per cent of corruption complaints received by the Australian New South Wales Independent Commission Against Corruption between 2000 and 2004 related to corruption in building and development, while close to a quarter of reported corruption cases in the US between 1970 and 1976 had to do with urban planning issues (Sberna and Vannucci forthcoming). More recently, a study on local level corruption in Spain found that 88 per cent of all cases between 2000 and 2008 were related to land issues and urban planning (Darias et al. 2012).⁶

A CONTAGION OF THE BROADER INSTITUTIONAL SYSTEM

What many of these and other cases demonstrate is that, analogous to a classic resource curse, corruption issues are not confined to a small segment of actors and institutions, but tend to affect and undermine the entire institutional governance structures of communities. As has been amply documented for corruption in natural resources, diverting resource rents into private pockets depends on a wide band of additional actors: complicit courts that depress compensation claims and rubber-stamp permits; local police that look the other way or actively help to quell resistance of local landowners or users who are evicted; and abetting lawyers and accountants who help to hide and transfer the illicit gains.

All these actors are either bought-off or otherwise persuaded to come on board and become complicit in corruption rackets.

Moreover, there is also an important international dimension to this issue of bad governance contagion related to this land resource curse. Urban land and property has evolved into a popular asset class for organized crime and kleptocrats to help them invest, hide and launder their ill-gotten gains. Urban land offers particular advantages for this. As mentioned earlier, its rapid appreciation in value makes it one of the few asset classes in a low-interest, low-growth global economy that still promises great returns on investment. In addition, urban land purchases have until very recently not been a focus of anti-money laundering efforts. Know-your-customer requirements that apply to the global banking industry and help protect against money laundering are insufficiently applied to global real estate transactions. In seven G20 countries with some of the most dynamic property markets (Australia, Canada, China, South Africa, South Korea, UK and the US), for example, real estate agents are not even required by law to identify all the real persons behind transactions that they help execute (Transparency International 2015).

As a result, shell companies – the ultimate controlling owners of which are not publicly known – by now account for a significant share or even dominate some of the most important property markets. In London, for example, more than 36,000 properties covering 5.7 square kilometres are owned by shell companies, with close to half of these anonymous ownerships concentrated in the most expensive boroughs of Westminster and Kensington and Chelsea (Transparency International UK 2015). And as several large-scale investigations have revealed, property deals via shell companies are not infrequently associated with money laundering and investments of illicit gains by some of the most dubious power-brokers in the world (Global Witness 2015; *New York Times* 2015).

All this means that urban land could even be described as resource curse by contagion. Illicit profits from natural resources and thus from classic resource curse situations, are being re-invested in urban land and property, thus sparking a knock-on resource curse around urban land.

SUMMARY

All these dynamics indicate that something akin to an urban land resource curse is likely to be a real risk in many urban areas around the world, and likely to play out in similar or even more drastic and consequential terms than for conventional natural resources. This is disconcerting when considering that this urban land resource curse not

only causes financial losses for the public purse but also comes with classic resource curse risks: it undermines governance; attracts rent-seeking and corrupt rackets; lowers reliance of government on taxes; and provides ample resources for patronage thus reducing important drivers of public accountability. As mentioned earlier, urban land and its management play a key role for our common urban future. Done properly, urban land management can lay the foundations for inclusive, prosperous, just and green cities. Done badly, it will fuel kleptocratic rackets, exacerbate inequalities, further marginalize and undermine the livelihoods of billions of urban poor, increase vulnerability to natural disasters, and hardwire dysfunctional economic and social relations into urban communities, a blunder that will stifle the development of cities for decades to come.

NOTES

1. The author works on emerging policy issues for Transparency International (TI). This chapter presents the personal opinion of the author and does not necessarily reflect the views of TI.
2. For a summary of the small number of subnational studies on the resource curse see Ross (2015). Some work related to the resource curse mentions urban land, yet typically only in passing and without specific analysis for example when presenting overall national resource endowments and representing urban land as a fixed estimated mark-up on produced capital (for example, Gylfason 2011).
3. Author's own calculations based on UNDESA (2011) and World Bank (2013).
4. Data reported in Healy and Ramanna (2013).
5. For a discussion of some of the main urban planning theories in the context of African urban development see Watson (2002).
6. Although the corruption literature is still thin on these issues, the prism of urban political ecology offers an insightful complementary entry point to some of the underlying interwoven dynamics of political, economic and natural/built environment relations. See for example, Swyngedouw and Heynen (2003).

REFERENCES

- Angel, S., J. Parent, D.L. Civco and A.M. Blei 2011. *Making Room for a Planet of Cities*. Policy Focus Report, Lincoln Institute of Land Policy, January 2011.
- Chen, T. and J. Kung 2014. *Political Resource Curse Under Authoritarianism: Evidence from China*. The Hong Kong University of Science and Technology, Hong Kong.
- Cushman & Wakefield. 2015. *Emerging and Frontier Markets Assessing Risk and Opportunity 2015*. Cushman & Wakefield.
- Darias, L., V.O. Martín and R.P. González 2012. 'Aproximación a Una Geografía de la Corrupción Urbanística en España', *Ería*, vol. 87, p.16.

- Dodson, J.R., E.J. Coiacetto and C.E. Ellway 2006. *Corruption in the Australian Land Development Process: Identifying a Research Agenda*. Refereed Proceedings of the 2nd Bi-Annual National Conference on the State of Australian Cities.
- Global Witness. 2015. 'Mystery on Baker Street', web feature, www.globalwitness.org/en/campaigns/corruption-and-money-laundering/mystery-baker-street/ (accessed 12 August 2016).
- Gylfason, T. 2011. *Natural Resource Endowment. A Mixed Blessing?* CESifo Working Paper Series No. 3353.
- Healy, P. and K. Ramanna 2013. 'When the crowd fights corruption'. *Harvard Business Review*, January–February, p.13.
- Jones Lang LaSalle. 2015. *Emerging Beyond the Frontier. An Overview of Sub-Saharan Africa's Real Estate Capital Markets*. Jones Lang LaSalle.
- McKinsey. 2011. *Strengthening the Foundations of Emerging Cities*. McKinsey.
- Mukhiya, V. 2003. *Squatters as Developers: Slum Redevelopment in Mumbai*. Ashgate. Aldershot.
- New York Times*. 2015. 'Towers of secrecy'. *The New York Times* (a series of investigative reports into the ownership of trophy real estate in NYC).
- New Yorker Daily Comment Blog. 2011. 'The just sisters defense: China's sex-scandal surge'. *New Yorker Magazine*. 11 December.
- Peterson, G. 2009. *Unlocking Land Values to Finance Urban Infrastructure, Trends and Policy Options No. 7*. PPIAF. The World Bank. Washington, DC.
- Phan, P. 2005. 'Enriching the land or the political elite? Lessons from China on democratization of the urban renewal process'. *Pacific Rim Law and Policy Journal*, 14(3) pp.608–9.
- Reydon, B. and T. Oliveira 2012. *Brazilian Land Tax Decentralization. A Case Study*. Paper presented at the Annual World Bank Conference on Land and Poverty, 23–26 April.
- Ross, M. 2015. 'What have we learnt about the resource curse?' *Annual Review of Political Science*, 18, 239–259.
- Sassen, S. 2015. 'Who owns our cities'. *The Guardian*, 24 November.
- Sberna, S. and A. Vannucci (forthcoming). *Le Mani Sulle Città. Corruzione e Infiltrazioni Criminali nel Governo del Territorio*.
- Sioufi, M. 2011. 'Land and climate change in a new urban world'. *Urban World*, 3(1) p.5–7. UN-Habitat. Nairobi.
- Smolka, M. 2013. *Implementing Value Capture in Latin America*. Lincoln Institute of Land Policy. Cambridge, MA.
- Swyngedouw, E. and N.C. Heynen 2003. 'Urban political ecology, justice and the politics of scale'. *Antipode*, 35(5) pp.898–918.
- Transparency International. 2013. *Global Corruption Barometer 2013*. Transparency International. Berlin.
- Transparency International. 2015. *Just for Show? Reviewing G20 Promises on Beneficial Ownership*. Transparency International. Berlin.
- Transparency International UK. 2015. *Corruption on Your Doorstep*. Transparency International UK. London.
- UNDESA. 2011. *World Urbanization Prospects. The 2011 Revision*. UNDESA Population Division. New York.
- UN-Habitat. 2011. *Innovative Land and Property Taxation*. UN-Habitat. Nairobi.

- Walters, L. 2012. *Land Value Capture in Policy and Practice*. Paper presented at the Annual World Bank Conference on Land and Poverty, 23–26 April.
- Watson, V. 2002. 'The usefulness of normative planning theories in the context of sub-Saharan Africa'. *Planning Theory*, 1(1) pp.27–52.
- Weinstein, L. 2008. 'Mumbai's development mafias. Globalisation, organized crime and land development'. *International Journal of Urban and Regional Research*, 32(1) pp.22–39.
- World Bank. 2013. *Doing Business 2013*. The World Bank. Washington, DC.

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