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Beyond transparency: A consideration of extraction's full costs

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\textbf{ABSTRACT}

This special section Beyond Transparency: Rethinking the Government of Extraction examines the relationship between international transparency discourse in the extractive sector, and the persistent association of unaccountable government, socioeconomic injustice and ongoing environmental hazards associated with extractive firms and their operations. Our critical analyses of transparency situate the discourse and practice within the overall turn-of-millennium regulatory capture of states in the global North - including Canada, the US and the UK - by oil and mining industry interests. Contributors probe how transparency regimes have been applied to oil and extractive sector 'host states' in the global South, in particular Nigeria, while the rent-seeking practices that these regimes seek to expose are rarely tied to corporate malfeasance in the North. We employ this introduction to consider global transparency discourse and regulatory regimes in the light of the full cost of extraction. Since the turn of the millennium, we argue, attention to extraction's full costs have been largely overshadowed in policy discourse via global transparency regimes, notably the Extractive Industries Transparency Initiative.

\section{Introduction}

Since the second quarter of 2020, as the COVID-19 pandemic disrupted the global economic order and with much of the world under different levels of lockdown, the petroleum industry experienced a crisis more profound than any in the past century. The reduced demand for oil forced an unprecedented price crash with ramifications for the profitability of petroleum corporations and the financial markets with which they are co-constituted. The price of a barrel of oil dropped below production costs. In North America, as producers filled all storage spaces with unsold crude, the price per barrel dropped below $0. Globally, the situation has threatened the revenues of exporting countries like Nigeria, where prices fell below the estimated production costs of $22 per barrel. As smaller oil firms declare bankruptcy, their CEOs pocketed exorbitant severance pay (McCormick 2020), akin to the fire sale prices, as per Naomi Klein's (2007) 'shock doctrine' Klein, 2007.

The unprecedented drop in crude oil prices also obfuscates the unresolved question of the full cost of extracting petroleum, a question which complicates transparency practices implemented by the oil and gas industry and state partners. Inspired by Nnimmo Bassey's contribution to this special section, we employ this introduction to consider global transparency discourse and regulatory regimes in the light of this full cost of extraction. Since the turn of the millennium, we argue, attention to extraction's full costs have been largely overshadowed in mainstream policy discourse via global transparency regimes, notably the Extractive Industries Transparency Initiative. The full costs of extraction entail the immediate ecological 'externalities' which complicates transparency practices implemented by the oil and gas industry and state partners. Inspired by Nnimmo Bassey's contribution to this special section, we employ this introduction to consider global transparency discourse and regulatory regimes in the light of this full cost of extraction. Bassey, 2020. Since the turn of the millennium, we argue, attention to extraction's full costs have been largely overshadowed in mainstream policy discourse via global transparency regimes, notably the Extractive Industries Transparency Initiative. The full costs of extraction entail the immediate ecological 'externalities' which complicates transparency practices implemented by the oil and gas industry and state partners. Inspired by Nnimmo Bassey's contribution to this special section, we employ this introduction to consider global transparency discourse and regulatory regimes in the light of this full cost of extraction. Bassey, 2020.

The precariously low-valued, global oil market incentivizes a new round of critique of oil and gas parastatals such as the Nigerian National Petroleum Corporation (NNPC) given the exceptionally low prices of these assets in current conditions. In opening its historic books to scrutiny, the NNPC facilitates conditions for a possible sell-off (Munshi, 2020) and attendant speculation, even while private sector activities remain shielded and privileged. This recent NNPC disclosure may be precipitous: the critical response to these sudden disclosures could prompt the crisis-induced sale of a public asset at conspicuously fire sale prices, as per Naomi Klein's (2007) 'shock doctrine' Klein, 2007.

Since the turn of the millennium, we argue, attention to extraction's full costs have been largely overshadowed in mainstream policy discourse via global transparency regimes, notably the Extractive Industries Transparency Initiative.
countries like Nigeria and Venezuela, where oil exports sustain the economy, the price of crude oil has ramifications beyond the profitability of extraction, with implications for the survival of the regimes in power, and for broader nation-building challenges (Coronil, 1997). As we synthesize in this introduction, the contributors to this special section - scholars and activists, center their analyses on examination of a decade of implementation of the Extractive Industries Transparency Initiative (EITI) and associated mechanisms in Nigeria, Ghana and Canada.

2. Resource struggles and the ‘Resource curse’

The social tensions and contradictions wrought by the oil industry came to international attention with the 1990s exposé of ecological devastation in the sites of extraction in Africa and Latin America, and in Indigenous people’s territories in North America. The struggles of the Ogoni in Nigeria resonated with an apoeothesis Northern environmental justice movement. The tensions experienced by Southern communities at the time, and those of the Indigenous justice movement in the North, often diverged from those of the mainstream of Northern environmentalism. Communities in resistance and social movements in the South demanded changes that were informed by understanding the interrelationship between (neo)colonial state power and big oil, seeking Indigenous sovereignty and ‘resource control’, a dynamic concurrent with struggles such as those of the Lubicon Cree in North America. Ogoni resistance compelled Shell to pull out its operations in Nigeria in 1993 as the Nigerian state unleashed violence against community members (Okonta and Douglas, 2003; Pegg ed 2015; Okonta, 2008). The outcry that followed Ken Saro-Wiwa's murder with Shell's complicity led to corporate re-regulation via a Shell led ‘Corporate Social Responsibility’ campaign (Zalik 2004), enshrined in that firm’s 1998 publication ‘Profits versus Principles: Does There Have to be a Choice?’ It was in this context that the Extractive Industries Transparency Initiative emerged as an elite-driven response to the oil industry’s negative repercussions (Flauffer 2010). As a voluntary initiative, it arose alongside the World Bank's Extractive Industries Review which aimed to address the reputational crisis that the industry faced (see Hilson and Maconachie 2009; Osuoka and Zalik 2010).

In the 1990s, as social movement struggles around environmental and resource justice simmered in authoritarian regimes such as Nigeria under Abacha, policy researchers asserted that resource-dependent countries expressed a high risk for authoritarian and corrupt practices (Moise 2020) accompanied by political instability, and weak social and economic indicators. Influential social scientists described these traits as pathologies and their follow-on effects as a ‘resource curse’ (Auyt 1993; Sachs and Warner 2001), wherein states with large extractive sectors, or particular subnational regions (Manzano and Gutierrez eds 2019), were constrained from mobilizing their societies for social and economic development. Informed by historical and economic analyses of particular countries (Mahdavy 1970; Karl 1997) the resource curse approach led to the promotion of a set of international policy norms for ‘good governance’, among these the transparency regime is a significant feature. Although many critical scholars have questioned resource curse theory for its determinist implications (Lahiri Dutt 2006; Watts 2004) influential academic and policy circles maintain that promoting state level transparency in the extractive sector should contribute to reversing negative social impacts of export commodity-dependence, in particular, the looting of public revenues (Collier 2010; Florini 2010; Cuvelier, Vasenroot and Olin 2014). Activists, too, anticipated that if companies must ‘publish what you pay’ to state institutions, citizens would be in a better position to hold their government to account. Nevertheless, transparency practice has largely delimited policy debates to exclude the historical relations of extraction. Longstanding critiques of these social relations (Rodney 1972; Girvan 1976/2017), including within West Africa, suggest how the roots of dynamics understood as corrupt - including the use of state office to transfer resources to limited social groupings – were shaped by the transatlantic slave trade, colonial indirect rule (Ekeh, 1975, 1990) and settler colonial extractive regimes.

The Extractive Industries Transparency Initiative traces its own institutional history to the critiques of the resource curse that emerged in the late 1990s. The EITI identifies a speech by Tony Blair at the Johannesburg World Summit on Sustainable Development as a key announcement, subsequently formalized at a 2003 conference hosted by the UK Department for International Development. Financial institutions supported the initiative explicitly as a means to “improve corporate governance and reduce risk” arguing that it is in the interest of the companies that we lend to and invest in (to) operate in a business environment characterised by stability, transparency and respect for the rule of law. These factors are essential to securing economic prosperity and social cohesion, which, in turn, enable these companies to prosper. 

Global civil society organization were also important actors, with the Publish What You Pay (PWYP) coalition growing out of a 1999 Global Witness report on Angola. Working mostly through PWYP, NGOs advocated strongly for EITI implementation in Global South countries and contributed to the enactment of enabling national legislations. This nominally tripartite approach to transparency governance persists in the EITI today. Within the EITI system the compromise between state, corporations and civil society (Aron et al., 2019; Sovacool et al., 2016) is heralded as the basis for arriving at disclosure practice. In recent years Extractive Industries and Society has hosted important fora on the legacy of Ken Saro Wiwa (Ako, 2015; Pegg, 2015) and the Niger Delta struggles (Naanen 2019; Senewe, 2015) and for broader demobilization or fragmentation of movements. Policy-directed work has considered the implications of the enactment of the EITI at the international scale for institutional change.

Our particular intervention in this special section seeks to address the space between these two sets of approaches. In essence the special issue interrogates the relationship between social struggles against the oil industry and the industry’s global re-regulation through transparency discourse, including whose claims are disabled or enhanced through transparency’s implementation regime. A key outcome of transparency discourse, in our view, has been to depoliticize contestation over the distribution of costs and the redistribution of windfalls by processes that ‘render technical’ (Li 2007) and bureaucratize, an analytic key to contemporary critical development studies (Ferguson 1994).

Nigeria, arguably, has made ‘revolutionary’ strides in institutionalizing a rigorous domestic Nigeria Extractive Industries Transparency Initiative (NEITI) leading to major public disclosures in NEITI audits. Indeed, in 2013 Nigeria received an award from EITI international for surpassing the minimum standard. Yet as discussed by various contributors to this special section (Adunbi, Osuoka, Nwadishi this issue), direct participants in the process hold that the NEITI has neither contributed to the reduction of poverty nor enshrined accountability in the extractive sector, key objectives of its work. In contrast, the United Nations Environmental Program (UNEP 2011) issued a major report on oil pollution in Ogoniland in 2011, revealing that the negative impacts of petroleum exploitation on the natural environment, human health and livelihoods in the Niger Delta are even worse than what was previously imagined and that Shell, as the major operator in the area, has not upheld its own international standards. Despite this major exposé of the oil industry’s ongoing pernicious environmental impact in the Niger Delta, there has been no sustained action on the part of government (and civil society) to address it, underlying the limits of both transparency discourse and greater information disclosures to substantively improve the regulation of the extractive sector. This squares with institutionalist studies that...
conceptualize transparency regimes as ‘governance by disclosure’ (Hafler 2010) and point to an at best murky relationship between transparency and substantive economic democracy (Gupta and Mason, 2014).

Such broadly disappointing results prompt the contributors’ examination of transparency discourse in practice, including its relationship to global financial regulation. The special section examines contradictions that emerge from re-inscribing the dominant neoliberal discourse wherein the Global North promotes extractive sector ‘good governance’ in the Global South through voluntary mechanisms, in the absence of a binding framework. Frequently missing are the normative and power-political (Mason, 2008), contexts that determine the content and limits of disclosures under transparency regulation, including the (un)usefulness of such disclosures. Thematically, we group the contributions to the section as revealing the limits of the transparency regime through a focus upon 1) the calculation of industry’s socio-ecological costs, 2) the compromise between the market and civil society, 3) the question of community accountability and 4) the advance of corporate audit culture. Collectively the contributions suggest that civil society/state arrangements reconfigure hegemonic power rather than constituting a more radical basis for power. Accordingly, the EITI fosters institutional procedures through which states, corporations and civil society mainstream nominal transparency within neoliberal business regulation.

3. Calculating the cost of oil

Watts and Zalik, in their contribution, illustrate the quandary encountered by researchers seeking data from the Nigerian oil industry where information is ‘consistently unreliable’. The Nigerian context, and the oil industry internationally, fosters “epistemological vertigo” wherein state agencies and international oil companies often release uneven and contradictory information on oil spills, using incommensurable spatial and regional categories. Focusing on oil spill data in Nigeria, Watts and Zalik (Watts and Zalik, 2020) draw attention to the inadequate estimation of the cost of pollution borne by residents of the Niger Delta, and the need to internalize and account for socio-ecological damages of the extractive regime. The practice of data obfuscation, they argue, is not a minor discrepancy but rather an ingrained and deliberate culture of opacity that is not unique to Nigeria (Gilbert and Zalik, 2019).

The unreliability of the data provided by state and private oil companies has implications for the reliability of EITI disclosures. This is central to Nnimmo Bassey’s editorial intervention centering upon ecological damage of the extractive sector as a “blind spot” in oil and gas industry accounting practices. Using the example of the 2014 NEITI audit, Bassey notes that the “regurgitation of oil company narratives”, and data— including oil spill data, reproduce the erroneous impression that oil spillages are caused in great majority by crude oil thieves, and not by the oil-producing companies that leave pipelines poorly protected and create the context of impoverishment that made crude oil theft (or direct resource control from the perspective of some of its protagonists) one of the few sources of income in the region. Bassey centres his analysis on the enormous pollution caused by the oil and gas industry, which in turn reduces local livelihood options. In absorbing the oil and gas industries enormous ecological costs (externalities), local communities subsidize and increase petroleum’s contribution to state revenues. Thus, Bassey emphasizes, the NEITI Act in Nigeria should be broadened to accommodate the overlooked environmental costs of extraction.

4. The market and civil society in compromise

Isaac Asume Osuoka (Osuoka, 2020) argues that as the EITI spotlighted Southern regimes’ mismanagement of extractives revenues, the initiative and related discourses mask the complexities of post-colonial state-building. The Northern economy driven reforms in the post structural adjustment era institutionalized a private-capital driven rentiership and governance code that validated and normalized corporate self-regulation and depoliticization, with initiatives such as NEITI a quintessential example. Squaring with Omolade Adunbi’s (Adunbi, 2020) contribution to this section, Osuoka argues that the EITI and NEITI are a depoliticizing response to 1990s mobilizations for resource sovereignty and civic demands for democracy. Such institutionalization of resource struggles over-simplified the claims for broader control and redistribution by centering and delimiting them to transparency discourse. “Public participation” in the EITI is informed by a flawed Euro-Western imagination of a one-way relationship between civil society and the state. Osuoka points out that the Nigerian ‘public’ is divided into different spheres including civil society – of which NGOs are part, and community, that engage in multilinear and competing relationships with the state. By accommodating the agendas of a few NGOs, the EITI has had a limited resonance among other publics. The result is that disclosures from NEITI audit processes have not spurred significant public demands for accountability in the extractive sector, despite the integrated role of NGO actors in the EITI process. Compared to the NEITI audits, mass political action by multiple publics, as reflected in the ‘the January Uprising’ of 2012, offered a more promising although fleeting opportunity for substantive transparency and reform of the oil and gas sector.

Omolade Adunbi Adunbi, 2020 uses the examples of local NGOs active in the NEITI processes, particularly Civil Society Legislative Action center (CISLAC) and Publish What You Pay (PWYP) Nigeria, to demonstrate how local actors linked to transnational networks promote the reconfiguration of power and knowledge production to privilege the state and corporations. Ultimately the marginality of communities in sites of extraction is reinforced. Adunbi examines how a system of extractive practices impact the lives of Niger Delta inhabitants and entangle them in contestations with corporations and the state over claims for control and benefit from oil resources. However, in focusing on the transparency and accountability of state revenues, NEITI ignores the core issues of injustice and redistribution at the local scale, for communities embedded in extractive sites. For Adunbi, the transparency campaigns of PWYP and local affiliates shift the focus of civil society discourse away from environmental degradation and loss of livelihoods. Using statements by Faith Nwadishi, a national leader of PWYP Nigeria, he supports the view that NGOs’ power has been reconfigured and built in partnership with the government and corporations that are part of the oil enterprise. Through NEITI, NGOs validate the petroleum industry as an indispensable contributor to state revenue, and for incremental benefits through institutional reforms, rather than examining alternative and more sustainable forms of economic production.

5. Community accountability

Institutional reform was already a focus for Ghana, a country that had depended on exporting gold and other primary produce for decades, before significant offshore oil discoveries in 2007. Neoliberal reforms had weakened the Ghanaian state’s regulatory powers and incentivized extraction (Hilson 2004) before the country joined the committee of oil-exporting countries. Still, Ghana was expected to avoid its past mistakes, and those of Nigeria, by creating institutions to ensure transparent management of oil revenues, and to maximize development benefits. Akonnor and Ohemeng examine the implementation of the Petroleum Revenue Management Act (PRMA) and the Ghana Extractive Industrial Transparency Initiative (GHEITI) (Akonnor and Ohemeng, 2020). They argue that while these institutions are necessary to ensure disclosures of royalties paid to the national government, they are insufficient to prevent misuse of revenues, especially for district and community level development. Focused on the transactions of the national government, donor-dependent and relatively weak local civil society groups as well as community residents have limited...
understanding of the processes employed by these institutions. Akonnor and Ohemeng propose enhanced civil society and community participation in monitoring public expenditures to ensure an improved social accountability regime.

While Osuka, and Adunbi query the technicaleizing of civil society engagement in the transparency regime, Faith Nwadishi, like Akonnor and Ohemeng, supports the development of the technical capacity of civil society participants. In a conversation between Isaac ‘Assume’ Osuka, Faith Nwadishi responds to concerns raised about NGOs role in the NEITI. Nwadishi offers insights from her vantage point as an activist, National Coordinator of PWYP Nigeria and leader of PWYP Africa who has represented civil society in the Multi-Stakeholder Working Group of NEITI and the International Board of EITI. She discusses the historical and ongoing forces that have shaped NEITI and the EITI, both of which continue to evolve in response to contestations. While acknowledging the role of Publish What You Pay in birthing the NEITI, and the difficult separation, she highlights specific factors that shaped the domestication of the EITI in Nigeria. Arriving at a time of heightened mobilizations around oil and gas pollution in the Niger Delta and a political transition in Nigeria, some civil society actors saw the EITI as an opportunity to draw concessions from the post-military national government in Nigeria. However, the voluntarism of PWYP and EITI informed civil society's more stringent demand in Nigeria, where the NEITI Act made disclosures mandatory. By utilizing and exceeding the initial EITI requirements, NEITI has served as a concrete example that influenced the EITI to favor national legislation, as per the example of Canada discussed by Ciupa and Zalik (Ciupa and Zalik, 2020). However, North-South tensions, and disagreements between civil society and corporations play out at the EITI International Board, expressed in a slow response to the push for an expansion of the EITI agenda. While the 2019 EITI Standard makes requirements for environmental and gender reporting, the corporations and Northern states that dominate the EITI continue to resist the inclusion of resource extraction’s human rights impacts in the EITI agenda.

6. Audit culture transparency: normalizing corporate practice

The EITI resistance to including civil society’s concerns with human rights violations and environmental degradation, instead favouring paperwork illustrating corporate payments to states, supports the view that the initiative fulfills the basic premises of audit culture; it provides “cognitive comfort” within complex institutions (Power 1997) while obfuscating windfall profits and protecting industrial secrecy. Ciupa and Zalik (Ciupa and Zalik, 2020) argue that Canada's Extractive Sector Transparency Measures Act (ESTMA), forms part of a broader extractive audit culture that reduces financial risk and legitimates industry practices rather than offering possibilities for substantive reform. In the ESTMA case reporting requirements provide social assurance, while ESTMA's mechanisms tie up civil society's ability to hold firms accountable in a review of disclosures. Within the broader context of financial uncertainty and volatility characterizing the early twenty-first century, transparency discourse facilitates the broader project of the internationalization of specific capitalist practices, employing ongoing global colonial relations to do so (Bratsis 2014). Ultimately Ciupa and Zalik demonstrate that substantive transparency in the extractive sector cannot be achieved without fundamentally altering the government of extraction by dismantling corporate privacy protections.

Conclusion

Collectively, this section's contents shed light on the relationship between international transparency discourse in the extractive sector, including as implemented through specific domestic protocols, and the persistent association between extractive firms and unaccountable government, socioeconomic injustice and ongoing environmental hazards. Transparency in practice, primarily framed in terms of a governance 'lack' emanating from Southern states (Bracking 2009) and colonized peoples, ultimately sits within the overall regulatory capture of states in the global North - including Canada, the US and the UK - by oil and mining industry interests, a capture that deepened with the new millenium’s resource boom. Contributors demonstrate how transparency practices have been applied to oil and extractive sector 'host states' in the global South, while the rent-seeking practices that transparency discourse seeks to expose are rarely tied to corporate malfeasance in the North. Ultimately the section reveals the unequal implementation of the EITI, with Northern actors arriving late to the application of transparency reporting in their home states. Revisiting Nnimmo Bassey's intervention herein, the neglect of ecological cost considerations in the EITI regime has weaknesses Southern exporters' and colonized peoples’ demands for substantive resource sovereignty or structural transformation of economic relations. In centering the state and social movements as central regulators of inherently globalized industrial activity, the issue thus points to the need to revamp popular forces to champion citizen-centered politics and substantive control of corporations. As this goes to press, and structural racism receives long overdue global attention in reaction to murders of Black and other people of colour at the hands of state security forces and through the COVIDcrisis, the pursuit of corporate – state transparency should be accompanied by the pursuit of corporate/state reparations to the communities and Indigenous peoples impoverished through extraction.

A final note:

In June 2019, as we were working on this special issue, the International Board of the Extractive Industries Transparency Initiative (EITI) released its modified Standards which, for the first time, include a provision for reporting of environmental impacts. However, implementing countries’ reporting obligations are limited to providing an overview of legal regimes and practices.

For a summary of these, which importantly also include measures for contract transparency, please see the Natural Resource Governance Institute discussion of the new requirements at https://resourcegovernance.org/blog/major-new-EITI-disclosure-requirements

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