Potsdam Spring Dialogues 2014

Natural Resource Governance in Africa.
How to Benefit from Regional Integration

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On Friday evening 25 April, prime time, Africabletelevision organised a talkshow A votre avis (In Your Opinion) where the men and women in the streets of Libreville (Gabon), Kinshasa (DRC), Bamako (Mali) and Niamey (Niger) were asked how the natural resources in their countries are managed. On the positive side, most of the interviewees stated that natural resources belong to the people. However, they also said its exploitation has benefited the few at the top and and a few international companies, but not the many at the bottom who so often bear the environmental and social burden.

In Niger on 21st of December and 25th of March hundreds of concerned citizens marched through the streets of Niamey to demand the 2006 Mining Code be applied to AREVA, the French nuclear giant, in its renegotiating of a new contract with the Niger government. Areva has benefitted from a 75-year fiscal stabilisation clause which has offered it a low price for uranium and a range of tax exemptions. In 2010 mining in Niger contributed only 5% to the GDP while making up 70% of exports.

Losing out is the title of an interesting report published in April by local civil society groups in Sierra Leone –in collaboration with INGOS- highlighting the loss in revenues due to tax incentives to extractive companies. Using figures obtained from the Sierra Leonean tax authorities, civil society estimates that the government lost $224m tax breaks in 2012 - equal to 8.3% of GDP- primarily to six extractive companies. In future, the public purse could lose much more: if existing trends continue, said the report, tax write-offs in the country, where roughly 53% of the population lives below the national poverty line, could soon exceed $240m a year.

In April 2014 in Guinea-Conakry a committee reviewing all mining contracts recommended that the government revoke all contracts with the Benny Steinmetz Group Resources, a less reputed minerals company. This is based on the fact that the concessions were illegally obtained through corruption for $165 million, before half of the stake being sold to Brazil's Vale for $2.5 billion – equivalent to twice the Guinean national budget.

These are just four highlights in a list of recent developments that is much longer and not limited to Africa. What these stories have in common however is that in a relatively short timeframe natural resource governance, and especially revenue transparency, have become topics of discussion for ordinary citizens worldwide but in particular in Africa. The men and women in the streets of Libreville, Kinshasa, Conakry, Niamey and Freetown understand that they are not getting a fair deal – and hence sufficient and crucial revenues- for their natural resources which are –in the end- non-renewable. Or as Christian Mounzeo the first PWYP coordinator in Africa so eloquently stated it and I quote: "*thanks to Publish What You Pay revenue transparency has been taking out of the ghetto and into mainstream development*."

And this all thanks to one man, and one man alone: Frank Zappa. Who in this room is old enough to know Frank Zappa an American hard rocker from the sixties? Who would have known that his psychedelic music has had such impact on natural resource governance? All joking aside, Frank Zappa had very little to do with it but one of his quotes –my favourite- illustrates perfectly the spirit and philosophy of the growing Publish What You Pay civil society movement. "*Without deviations from the norm, progress isn't possible*" has been the PWYP approach ever since the campaign started informally in the late nineties and officially in 2002 when six UK based NGOs came together to call upon the companies to 'publish what they pay' and upon the governments to 'publish what they earn'. This was based on extensive research, particularly in Angola, showing that a lack of financial transparency has abetted mismanagement, corruption and conflict.

Since 2002 the PWYP movement has mushroomed: we now have over 800 civil society organisations and in 41 countries we have national PWYP coalitions. 25 of these are in Africa which shows the tremendous thirst of African civil society in their quest for equitable management of natural resources.

A couple of months after Publish What You Pay started in 2002 and in response to our policy asks, Tony Blair announced the birth of the Extractive Industries Transparency Initiative (EITI) a multistakeholder initiative where civil society, industry and governments sit around the table to discuss natural resource governance based on reports where the companies publish what they pay and governments publish what they receive. This initiative is now implemented in 44 countries, the latest members to be accepted to the family being Ethiopia and the USA.

While Publish What You Pay recognises the enormous value of the EITI as it has given civil society unprecedented access to industry and policy makers, we also see weaknesses and hence we followed Frank Zappa again to seek the deviation!

Due to its voluntary nature the initative depends too much on the political will of a country and therefore countries like Angola have never signed up and Gabon and Equatorial Guinea have been delisted from the EITI for various reasons.

In response and in a united fashion Publish What You Pay has always been advocating for mandatory disclosures of revenue payments through stock listings. In 2010 we had a major breakthrough in the USA when Dodd-Frank Section 1504 was adopted by US Congress. This crucial piece of legislation obliges all US listed gas, oil and mining companies to publish all their payments to governments for every country they have operations in and for every project. The European Union followed swiftly and after 18 months of intense negotiations the European Parliament voted for the Accounting and Transparency Directives in June 2013. These go a bit further than Dodd-Frank 1054 as also large non-listed companies are obliged to publish their payments per country and per project. The directives are now in the transposition phase to be legislated in national law. In the picture you see PWYP members from Niger and DRC during the press conference in early June 2013.

The G8 Lough Erne summit accelerated progress with the Tax, Trade and Transparency Agenda where Canada committed to mandatory disclosures, EU members Germany, Italy, UK and France committed to swift transposition of the EU directives as well as EITI implementation. And the UK committed to a public registry of ultimate beneficial owners and starting a debate on the automatic exchange of tax information.

But the key changes are happening in Africa itself with the Africa Mining Vision providing the overall framework, as we have just heard. The EITI has been enshrined in law in Liberia and Nigeria and there are now draft EITI laws in Zambia and Tanzania. Niger has gone one step further with revenue and contract transparency being enshrined in the 2010 constitution plus an additional provision that a sovereign wealth fund needs to be established in order for future generations to also benefit from the finite natural resources. ECOWAS has mining directives which are in line with the Africa Mining Vision established through the support of an inclusive consultation process.

So what does all of this mean for the work of the Publish What You Pay coalition? With all the above-mentioned successes can we say our work is done or do we need to deviate once more?

Obviously revenue transparency is only one piece of the big puzzle called Natural Resource Governance. It is a critical one but as a movement we have evolved as well since we adopted the new PWYP strategy Vision 20/20. Vision 20/20 refers not only to the year 2020 but also to the perfect sight which we will get as a result of our campaign for transparency and accountability. Our vision 20/20 is a world where ALL citizens benefit from their natural resources today and tomorrow.

As part of Vision 20/20 we have developed a value chain for and from a citizen's perspective. Our Chain for Change shows in four strategic pillars and 12 easy steps what an open and accountable extractive industry looks like. There are three key strategic pillars:

Publish Why You Pay and How You Extract

To assess whether women, men and youth are getting a fair deal for their natural resources. This includes themes such as the decision to extract, extraction rights, and the monitoring of the terms and conditions of deals and contracts signed between governments and companies.

Publish What You Pay

In 2002, it all started with this pillar, which focuses on the full, detailed and mandatory financial transparency of payments made by extractive companies to governments. This can be done through EITI, enshrined in law, or mandatory disclosures mechanism.

Publish What You Earn and How You Spend

If PWYP has campaigned so hard for transparency it is in order for transparency to result in increased accountability. This pillar covers civil society's role in ensuring that natural resource revenues reach the state and are spent responsibly and equitably

The Vision 20/20 is what we are currently advocating for and through the new EITI standard adopted in May 2013 we have seen great advancements in getting closer to its realisation. The new EITI standard includes state-owned company disclosure, project level reporting (in line with US and EU legislation), contract transparency, beneficial ownership, license transparency and linking revenues to budgets. We are currently working hard to unlock the potential of the new EITI standard at national level!

However the EITI is not the only issue we focus on and we will continue our stock listings campaign as well as an increased focus on tax justice and the fair deal and the issue of consultation with citizens prior, during and after an extractive project ends.

So what deviations from the norm does Publish What You Pay have as recommendations for this audience? In the last part of my expose I would like to focus on three key recommendations to help stimulate further debate. There are many more particularly around tax justice which I hope will be discussed in the coming days but I want to focus on the power of three.

1. Regional integration is crucial but let's not underestimate the importance of national ownership! As we have seen with the EU directives, the Africa Mining Vision, the ECOWAS directives and the global EITI standard, the biggest challenge lies with national level implementation of these mechanisms. Often local civil society, media and parliamentarians are not fully aware of the regional frameworks and hence ensuring a follow through at national level can be a challenge.
2. One particular recommendation is for Germany as a G8 leader and EU economic powerhouse. In line with the G8 commitments, Germany should transpose the EU transparency and accounting directives swiftly as well as move forward on their commitment to the EITI. Especially France and the UK are on track to transpose the

directives before the end of this year and have made great progress on EITI implementation.
3. But most crucial for us as a movement is the space for civil society to be seen as credible actors in this sector and our ability to engage in and stimulate debates. Our twelve years have not come without sacrifices; we have seen arrests of PWYP members in Gabon, Niger, Congo-Brazzaville and threats to civil society in many more, especially where recent oil and gas discoveries have been made. New laws governing NGOs are introduced to restrict space, simply for asking questions requesting more information or, where there is more information, demanding a debate. PWYP is not interested in creating small islands of excellence and putting data out in the public domain if it doesn't lead to national debates and scrutiny from media, civil society and parliaments. Transparency needs to get us closer to our Vision 20/20 where all citizens benefit from their natural resources.

Without space and the wider enabling environment it becomes hard, if not impossible to deviate from the norm. And I am sure that my story has given you enough evidence that deviations are required in order for all of us to make progress.

So on that note let's deviate!