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MANAGING NATURAL RESOURCES FOR DEVELOPMENT IN EAST AFRICA:

Examining key issues with the region's oil and natural gas discoveries

ROADMAP REPORT

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INTRODUCTION

Recent discoveries of oil and natural gas in East Africa have created excitement throughout the region over the potential windfall of revenues into government coffers. Uganda has a reserve of 2 billion barrels of oil and expected government revenues of $3.2 billion per year for the period from 2010 to 2040.[1] In Kenya, there will be $10 billion in government revenue during the anticipated 30-year production period. In Tanzania, natural resources have the potential to create $2.5 billion in yearly government revenues. And in Mozambique, World Bank estimates show that, by 2032, resource revenues could reach $9 billion, accounting for 21 percent of total revenues.[2]

Governments, civil society organizations (CSOs), and development experts look at this expected revenue as potentially transformative for economic and social development. At the same time, these actors are wary of the "resource development curse" and the various challenges that are often associated with natural resource management: corruption, regional and ethnic competition for resources, macroeconomic instability, Dutch disease, threats to the livelihoods of local populations, the potential for conflict, and many other issues.

Natural resources have the potential to be a boon for economies when managed well, as is the case in countries like Norway. On one hand, proper fiscal management, transparency, well-balanced prioritization, the engagement of stakeholders, and effective revenue collection tools can create an environment for the effective use of the revenues from natural resources. On the other hand, without strong management and oversight institutions, the use of natural resources can easily undermine development.

For the last four years, the Africa Growth Initiative (AGI) at the Brookings Institution has extensively studied and analyzed the most effective ways to ensure that recent discoveries of oil and natural gas within Kenya, Mozambique, Tanzania, and Uganda can be well managed and used to promote the development of these countries. In collaboration with the Economic Policy Research Centre (EPRC) at Makerere University, a partner research institution in Uganda, AGI has examined key issues pertaining to the management of natural resource wealth in East Africa, including extensive primary surveys in the oil exploration region in Uganda. These research activities have been geared to promote better policies for managing the newly found natural resource wealth. Together with EPRC, Oxfam, and other stakeholders, AGI has sponsored multiple symposiums and conferences in the region to disseminate research findings and debate policy options.

This paper contains a series of short briefs covering different topics related to the oil and natural gas discoveries in East Africa, with the goal of providing an overview of the research done by AGI on these topics and a summary of key issues arising from the various forums. These topics are covered in the following sections:

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[1] Wiebelt, M., K. Pauw, J.M. Matovu, E. Twimukye, and T. Benson, "Managing Future Oil Revenue in Uganda for Agricultural Development and Poverty Reduction – A CGE Analysis of Challenges and Options." (2013). Available online: https://www.ifw-kiel.de/ifw_members/publications/managing-future-oil-revenue-in-uganda-for-agricultural-development-and-poverty-reduction-2013-a-cge-analyis-of-challenges-and-options/CAADP%20paper.pdf

[2] See World Bank, "Generating Sustainable Wealth from Mozambique's Natural Resource Boom," 2014, https://openknowledge.worldbank.org/bitstream/handle/10986/17361/860820PN0P13180agement0Final0140207.pdf?sequence=1.

- **Land rights issues and the link to oil and natural gas exploration.** First, we examine how land rights and government policies regarding land use affect communities with respect to oil and natural gas exploration and how these policies can be improved to support and secure the rights of local communities.
- **Free, prior, and informed consent, and oil and natural gas exploration.** When oil and natural gas resources are discovered, the exploration and extraction of these resources, along with the building of pipelines and/or refineries, can displace local populations or severely disrupt their livelihoods. This section looks at how the concept of free, prior, and informed consent can be applied as a way to engage and work productively with local communities to ensure that their best interests are considered from the beginning of exploration activities.
- **Government management, transparency, and capacity in revenue collection.** The ability of governments to effectively collect and manage revenues from oil and natural gas has large effects on the way that money is used for development. This section examines how government capacity and transparency are critical for effective revenue usage.
- **Balancing local and national development priorities in resource revenue use.** As countries seek to use the revenues they raise from oil and natural gas for development priorities—education, health, infrastructure, and the like—they will face trade-offs on how resources are apportioned between local and national priorities as well as to longer-term savings. This section thus examines how governments and CSOs are proposing to manage revenues from the new natural resources.
- **Achieving economic growth and stability through the fiscal management of natural resource revenues.** Similar to the previous section's focus on development priorities, this section looks at strategies and options for saving and investing oil and natural gas revenues to ensure that countries are able to benefit from innovative fiscal management, both now and in the future.
- **The role of civil society organizations in oil and natural gas transparency.** CSOs play a very important role in ensuring that governments implement policies and laws related to oil and natural gas transparency in a way that benefits their citizens. This section examines the status of CSOs in the region, while also looking at how they can be better supported in their work and the policies that they find important.
- **International standards of transparency: EITI, PWYP, and Dodd-Frank.** Although individual countries have their own policies and laws regarding transparency, international standards and norm-setting networks—such as the Extractive Industries Transparency Initiative (EITI), Publish What You Pay (PWYP), and Section 1504 of the Dodd-Frank Wall Street Reform Act—push for globally accepted transparency standards. This section looks at these important efforts, focusing on EITI and ways to advance transparency through such international norms in the region.

LAND RIGHTS ISSUES AND THE LINK TO OIL AND NATURAL GAS EXPLORATION

When it comes to the exploration, extraction, and use of oil and natural gas resources in the African context, land rights and the complicated issues surrounding them are a critical point of consideration. To give a bit of context regarding land tenure, as explained by the United Nations Food and Agriculture Organization, "Tenure systems define and regulate how people, communities, and others gain access to natural resources, whether through formal law or informal arrangements. The rules of tenure determine who can use which resources, for how long, and under what conditions. They may be based on written policies and laws, as well as on unwritten customs and practices."[3]

When land rights and land tenure issues are not clearly defined, individuals can be negatively affected by being disenfranchised when oil or natural gas resources are discovered in their vicinity. African land tenure systems are generally quite different than those in other parts of the world. According to a recent World Bank report, "Only about 10 percent of rural land in sub-Saharan Africa is registered; the rest is undocumented, informally administered, and thus vulnerable to land grabbing and expropriation without adequate compensation."[4] Customary land tenure—that is, tenure based on custom and not necessarily accompanied by formal and official government records—is common in Africa. The system provides some security by guaranteeing land to members of a certain community that can be used for agricultural purposes—as stated in a recent article, "a customary land right has proven for many poor people to be one of the few reliable assets over which they have secure control"[5]—but in many sub-Saharan African countries, the laws protecting customary land rights are weak, especially when the land becomes valuable.

CURRENT STATUS IN EAST AFRICA

Regarding land rights in East Africa, Mozambique, Tanzania, and Uganda are three of the seven countries in sub-Saharan Africa that fully recognize customary tenure arrangements without such arrangements being formally registered in their states. Kenya has been discussing a community land rights bill, and though there continue to be points of contention, some experts believe this pattern of recognition has much potential.

However, even given these views on customary land tenure, there is difficulty because land use rights in many regions of these countries are not well defined and protected, so the interests and activities of oil and natural gas companies are generally allowed to trump land right laws. As the World Resources Institute has noted, "Governments are not required by law to have the consent of landholders to allocate mineral and petroleum rights over privately held land."[6] For example, Uganda

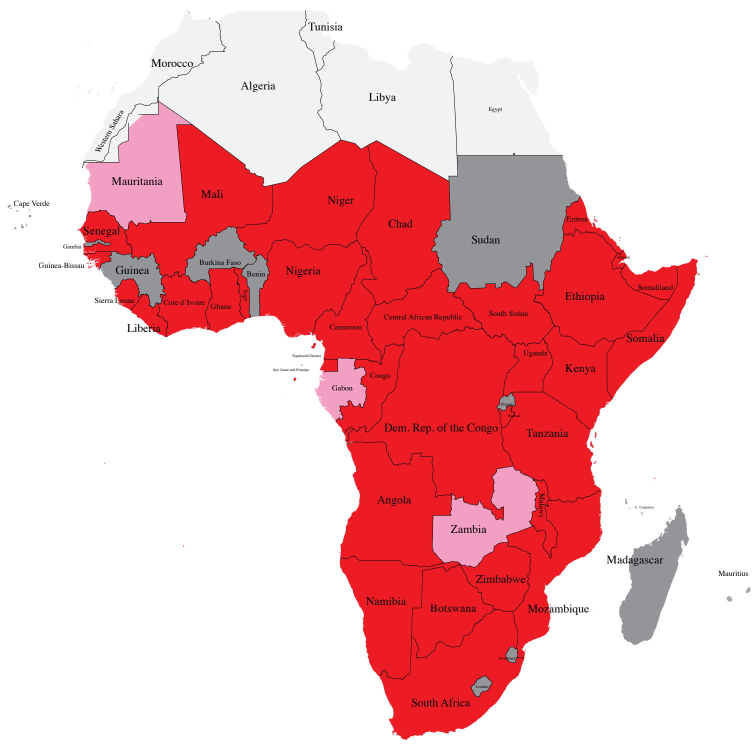
[3] See United Nations Food and Agriculture Organization, "Voluntary Guidelines on the Responsible Governance of Tenure," http://www.fao.org/docrep/016/i2801e/i2801e.pdf.

[4] See http://www.worldbank.org/en/news/press-release/2013/07/22/how-africa-can-transform-land-tenure-revolutionize-agriculture-end-poverty.

[5] See http://dai-global-developments.com/articles/customary-land-tenure/.

[6] Danielle King and Peter Veit, "Overlapping Land and Natural Resource Rights Creates Conflict in Africa," World Resources Institute (December 11, 2013). Available online: http://www.wri.org/blog/2013/12/overlapping-land-and-natural-resource-rights-creates-conflict-africa

FIGURE 1. Does the law recognize customary or traditional rights to the natural resource?



- Yes
- Yes, implied
- No
- No, implied
- Partial
- Silent
- No information available

Source: World Resources Institute (http://www.wri.org/applications/maps/rights-to-resources/).

recently passed two petroleum bills that both subordinate community land rights to petroleum rights—as was explained by Peter Viet in early 2014 in a panel discussion at the Brookings Institution.[7]

Viet went on further in his explanation to state that in some cases, African governments will give so many rights to the oil companies that the people who previously would have considered land part of their customary land or community land must seek approval from oil companies in order to erect a new structure or building on the land.[8] In some cases, even if the customary land users want to farm, they can face restrictions if their activities are seen as interfering with petroleum operations. The World Resources Institute has created a video series demonstrating the problematic nature of these trends regarding land and resource rights, which includes maps showing the state of land rights and issues across sub-Saharan Africa.[9] Figure 1 shows the answers to the question "Does the law recognize customary or traditional rights to the natural resource?" with the color red symbolizing the answer "no"—the overwhelming response for most countries on the continent.

In addition, the effects of poor or subordinated land rights can mean undercompensation or a total lack of compensation for the affected groups. In Uganda, a recent survey by International Alert showed that within the Albertine Graben region, 10 percent of households were displaced. Perhaps even more significant was the reaction to the *compensation*, which many felt was not sufficient—and worse, that the compensation was made without preparations to help the receiving households manage it, and without giving the households the needed compensation knowledge, definitions, or guidelines. When

[7] See http://www.brookings.edu/events/2014/02/20-east-africa-oil-gas.

[8] See http://www.wri.org/blog/2013/12/overlapping-land-and-natural-resource-rights-creates-conflict-africa.

[9] See http://www.wri.org/our-work/project/land-and-resource-rights/maps-data#project-tabs.

the livelihoods of entire families depend upon their land, their land is taken in exchange for a one-time payment that is not well explained, and families are not given sufficient—or any—financial advice or training regarding investing the payment or sustaining their standards of living, the effects can be overwhelmingly detrimental.

In addition, the amount of compensation given to landowners might not equal the land's actual market value. According to Viet, "Compensation is based not so much on market value; it's based on government-valued land. And a lot of times, there's a real delay in when compensation is paid, and in that period of time land values increase. So the amount of compensation that is provided the landholders is significantly lower than market value." In this way, "the balance between petroleum rights and land rights is not quite there, and the subordination of land rights is a particularly important issue."[10]

ADVANCING POLICIES FOR LAND ISSUES

Clearly, land rights and their interplay with resource rights constitute a major issue for oil and natural gas exploration in East Africa. Inclusive land rights policies are not enough to guarantee that citizens in this region are getting a fair deal. Governments need to ensure that their land rights and petroleum rights are being structured in a way that does not allow their citizens to come second after international oil and natural gas companies, and also does not allow for the already-wealthy elite to manipulate customary and community land tenure rights at the expense of rural farmers and agricultural workers. Therefore, the efforts of the many international advocacy organization and local CSOs that are working directly with governments and development agencies to strengthen land and resource rights are critical for furthering fair land rights policies in the region.

[10] See http://www.brookings.edu/events/2014/02/20-east-africa-oil-gas.

FREE, PRIOR, AND INFORMED CONSENT AND OIL AND NATURAL GAS EXPLORATION

The concept of free, prior, and informed consent (FPIC) stems from international human rights law, which states that individuals should have the right "to give or withhold their free, prior, and informed consent from actions that affect their lands, territories and natural resource." As stated in the Oxfam guide to FPIC:

> *This right is often violated when there are large-scale development projects—like a mine, dam, highway, plantation or logging. Often, Indigenous Peoples and other community members are left out of the planning and decision-making process in these projects. The outcome can be devastating. Indigenous Peoples and project-affected communities risk a permanent loss to their livelihoods and cultures. Lands can be damaged or taken without their consent. Resettlement is often forced on communities with inadequate compensation offered.*[11]

In recent years, human rights organizations have pushed for FPIC as a standard for procedures in order to ensure that displacement and negative livelihood effects are avoided. According to a recent Oxfam report, many of the existing FPIC-related policies and legal provisions are found under laws that apply to indigenous persons, but clearly are also very useful for legislation and policies related to oil and natural gas. In fact, the report states, "FPIC is emerging as a best practice for safeguarding the human rights of all communities affected by extractive industry projects."[12]

The Oxfam report also notes that while the laws in many African countries do require a certain amount of public participation or consultation for environmental decisionmaking, many of the norms only require things like environmental impact assessments, which do not take into consideration the rights of those occupying the land. The section in this document that examines land rights touches on the kinds of control that governments have over land use throughout much of Africa. A recent article in *The Guardian* summarizes the issue well: "Consultation falls well short of consent. Indigenous communities have the right to speak out on how their land is developed under the African Charter on Human and Peoples' Rights; they just lack the right to say a final 'no' to mining projects."[13] This right to say no is an essential part of "consent" for communities in resource extractive areas.

STATUS WITHIN THE REGION

Certain regional groups in Africa have recognized the importance of FPIC, but enforcement is piecemeal. For instance, the Economic Community of West African States included FPIC in its 2009 Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector, but the directive is not being uniformly enforced by member countries. The Africa Mining Vision also has provisions for FPIC, which, in language from the 2011 version that was adopted by the African Union Conference of Ministers, states that countries should "develop instruments to

[11] See http://www.culturalsurvival.org/sites/default/files/guidetofreepriorinformedconsent_0.pdf.

[12] Emily Greenspan, "Free, Prior, and Informed Consent in Africa: An Emerging Standard for Extractive Industry Projects," Oxfam America Research Backgrounder Series, 2014, www.oxfamamerica.org/publications/fpic-in-africa.

[13] See http://www.theguardian.com/sustainable-business/blog/mining-uganda-karamoja-consult-communities-licence-operate.

domesticate the Protocol of Free Prior Informed Consent with respect to communities affected by mining."[14]

In early 2014, Human Rights Watch called on legislators and policymakers in Uganda to include provisions for FPIC within the country's mining code, and it encouraged other organizations and multilateral aid organizations like the World Bank to do the same. Human Rights Watch has written reports on how FPIC applies to mining in Uganda and Mozambique. These reports discuss how livelihoods and food security are affected by land being used for other purposes. And though the pertinence of FPIC to oil and natural gas has not been as extensively discussed, it is similarly important.

Beyond basic respect for the rights of local residents, another important aspect of the land rights issue is the buy-in and approval of local communities—especially to ensure that protests, unrest, and hostile community relations do not become a problem for private sector entities. In fact, in a 2014 interview with Oxfam's Emily Greenspan, the chairman of Tullow Oil stated, "From our perspective, consent isn't really enough; we actually need the support of the local community. . . . Grudging consent is not enough, we actually need the community to be on our side." Greenspan notes that "effective implementation of FPIC would in fact require the ongoing support of communities (it is not a one-off process)."[15] Thus, the effective implementation of FPIC is really a matter of taking a concept that is more often successfully utilized in other resource areas and in other regions, and applying it to the oil and natural gas sector of Africa as a strategy for respecting and engaging constructively with local communities.

POLICIES FOR ADVANCING FPIC IN AFRICA

As noted above, governments often fail to proactively and effectively engage local residents in resource-rich regions. According to the World Resources Institute, "In many cases, the process for determining the public interest requirement is informal and unsystematic, and is not an open or participatory process involving the public or even other branches or levels of government. Public purpose is usually defined so broadly that, in practice, it does not serve as a significant limit on the government's power of eminent domain."[16] As mentioned above, advancing the use of tools like FPIC in Africa will require that countries have already accepted this strategy as part of their policies for engaging with local communities. FPIC can serve as a formal, open, and participatory process that ensures local people have a say and are not unfairly displaced. Policies related to FPIC must go hand in hand with those related to land rights; therefore, encouraging local and international CSOs to push governments to embed frameworks like those presented by Oxfam within national policies will be the way to ensure progress.

[14] African Union Commission, African Development Bank, and United Nations Economic Commission for Africa, "Building a Sustainable Future for Africa's Extractive Industry: From Vision to Action," 25 (December 2011), available at www.africaminingvision.org.

[15] See http://www.culturalsurvival.org/sites/default/files/guidetofreepriorinformedconsent_0.pdf.

[16] Peter G. Veit, Rugemeleza Nshala, Michael Ochieng' Odhiambo, and Jacob Manyindo, "Protected Areas and Property Rights: Democratizing Eminent Domain in East Africa," 10, http://pdf.wri.org/protected_areas_and_property_rights.pdf.

GOVERNMENT MANAGEMENT, TRANSPARENCY, AND CAPACITY IN REVENUE COLLECTION

Recent oil and natural gas discoveries in East Africa have the potential to bring a great deal of new revenue to the region. The International Energy Agency's 2014 *Africa Energy Outlook* report states that while the scale of oil resources that have been and are being discovered in East Africa are "not transformative in a global sense," they have the potential to provide a much-needed source of export revenue for countries in the region.[17] The transparent management and collection of this revenue will be very important for achieving developmental gains in the region.

Kenya's oil discoveries are estimated to bring in about $10 billion in government revenue during the anticipated 30-year production period.[18] The government of Uganda and Tullow Oil estimate that Uganda's reserves will generate over $2 billion in annual revenue for more than 20 years.[19] In Tanzania, the country's Energy and Minerals Ministry estimates that between $2 billion and $2.5 billion a year in revenue will be generated by the natural gas sector for about 30 years once there is commercial production, while the International Energy Agency estimates about $35 billion in revenue total for the country—still a significant amount of money.[20] Projections from the International Energy Agency for Mozambique from initial production through 2040 are about $115 billion in revenue.[21]

These billions of dollars in oil revenue have great potential for these countries; therefore, one of the most critical items for ensuring that this potential is reached is effective government resource revenue management—and even ahead of this, ensuring that these revenues are collected effectively and transparently, which means making certain that the government has the capacity to do so. The importance of government capacity has been emphasized by Ambassador Carlos Pascual—the U.S. State Department's special envoy and coordinator for international energy affairs, the former U.S. ambassador to Mexico, and the former vice president and director of the Brookings Foreign Policy program. At a 2014 Brookings-Oxfam event, he stated, "If you ask the question, what's going to make a difference in Uganda, in Kenya, in Tanzania and Mozambique, [the] fundamental issue is going to be, what does the fiscal regime look like? What does the tax regime look like? How transparent is it? How much pressure is there going to be for payments outside of that tax regime?" Ambassador Pascual also emphasized that governments' capacity to track these payments and contracts is also critical. Because these issues are tied together, East African countries must not separate them when creating policies, building institutions, and devising tax systems that address oil and natural gas discoveries.

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[17] International Energy Agency, *Africa Energy Outlook: A Focus on Energy Prospects in Sub-Saharan Africa—World Energy Outlook Special Report* (Paris: International Energy Agency, 2014), http://www.iea.org/publications/freepublications/publication/WEO2014_AfricaEnergyOutlook.pdf.

[18] See http://www.ogj.com/articles/2014/05/globaldata-kenya-s-first-commercial-oil-find-could-generate-10-billion.html.

[19] See http://www.resourcegovernance.org/countries/africa/uganda/extractive-industries.

[20] See http://blogs.wsj.com/frontiers/2014/09/04/tanzania-looks-to-review-gas-and-mining-sector-agreements/.

[21] International Energy Agency, *Africa Energy Outlook*.

A 2014 article by the Africa Progress Panel states that "every year, the continent loses an estimated 5.7 percent of its GDP [gross domestic product] to illicit financial flows. The very words 'illicit financial flows' suggest association with criminal and corrupt activity. In Africa's resource-rich countries, these illicit flows are mostly linked to tax evasion in the natural resources sector."[22] Illicit flows are intimately linked as well to government capacity to track such revenues. A recent study by Global Financial Integrity showed the amounts of domestic tax and tariff revenues that countries in Africa lost because they lack the capacity and transparency needed to manage revenue from international trade; the results of the 10-year study demonstrated that "Kenya lost $435 million, Mozambique lost $187 million, Tanzania lost $248 million, and Uganda lost $243 million on average per year in potential tax and tariff revenue."[23] This represents large revenue flows for these governments to miss out on, and there is also much potential for even greater losses as natural resource revenues increase following the exporting of these new discoveries. The study states that

> *customs authorities in the four governments in this study are hampered by not only the lack of data on trade, tax, and corporate transactions in their own country, but also by the lack of data on international trade. If customs officers were able to access the latest global market price for an imported good and find that the invoice value differs significantly, they could use the information to spur further investigation of the parties in the transaction.*[24]

Tanzania is also a good example of a country that has lost revenue because of its government's inability to effectively monitor, negotiate, and collect taxes. In a 2014 article, Ian Gary summarizes the Brookings-Oxfam conference commentary of Prosper Ngowi, an economics professor in Tanzania, in which he states that "Tanzania has lost a lot of revenue from the gold sector because of its inability to monitor and collect taxes."[25] Furthering this point, a 2014 commentary by Global Financial Integrity states that "the value of Tanzania's mining exports grew to $1.5 billion in 2010, but annual government revenue from its sale was only about $100 million, or about 7 percent."[26]

These comments at the conference mirrored the findings of Ngowi and the Norwegian Agency for Development Cooperation, which notes that "the Tanzanian Revenue Authority doesn't have capacity for extractive taxation generally but especially on oil and gas. . . . While revenues will come seven to ten years from now, that's not so far away and it is good to put things in place very early. If we don't build the capacity to properly tax these resources, all the revenues that should be used for pro-poor development would be a distant dream."[27] Tanzania is just one example, but it is clear that all the region's countries must urgently get things right to ensure that governments can properly and transparently manage and collect revenues related to their natural resources.

ADVANCING POLICIES FOR RESOURCE REVENUE COLLECTION

Addressing the issues pertaining to better resource revenue collection is complicated and involves not only implementing good policies but also coordinating agencies and institutions. Tax administrators, customs agencies, and the regulatory agencies for oil and natural gas need to be better connected and cooperate more strongly in order to ensure that they are effective and comprehensive. Auditing needs to be a priority, and countries must have the capacity to do this effectively as well as verify the accuracy of the resources and potential revenues (in many cases, the information comes from third parties, and countries might not be able to confirm the numbers independently, which is important for

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[22] See http://www.africaprogresspanel.org/africas-citizens-need-a-more-transparent-commodities-trade/.

[23] See http://www.gfintegrity.org/wp-content/uploads/2014/05/Hiding_In_Plain_Sight_Report-Final.pdf.

[24] See http://www.gfintegrity.org/wp-content/uploads/2014/05/HidingInPlainSiteExecutiveSummary.pdf.

[25] See http://politicsofpoverty.oxfamamerica.org/2014/02/taxing-affair-collecting-oil-revenues-africa/.

[26] See http://www.gfintegrity.org/tanzania-needs-careful-gas-revenues/.

[27] Siri Bjerkreim Hellevik, Farouk Al-Kasim, Prosper Ngowi, Harald Stokkeland and Karen Sund, "Mapping and analysis of the needs for petroleum related education in Tanzania," Norwegian Agency for Development Cooperation (11 December 2013).

accurate auditing and resource revenue management). Governments also need to ensure that the information required is available to them—so that the amount and value of trade flows are known and taxed consistently, and abuses of the law are prevented.

Clearly, it is also important to have tax systems and regulations that ensure that the oil and natural gas sectors are not given too much power and are not allowed to manipulate existing systems. CSOs can also play a role in pushing governments to put these kinds of regulations in place and can bring attention to failures and limitations. Governments in the region need to take seriously the potential real income and development losses that could be suffered if resource revenue collection and management are not made a priority.

BALANCING LOCAL AND NATIONAL DEVELOPMENT PRIORITIES IN RESOURCE REVENUE USE

The recent oil and natural gas discoveries in East Africa have sparked a great deal of excitement due to the large revenues expected from these natural resources and, more specifically, their potential contribution to development. If used properly, this large amount of potential income from the extractive sector could enable countries to fund infrastructure, to improve upon and advance social development projects focused on education and health, and to reduce poverty. Creating a national plan to ensure that this revenue is used most effectively will be very important for countries as they seek to ensure that the limited life span of their potential oil and/or natural gas output can support broad-based growth in their economies and the region.

DEVELOPMENT IN THE REGION

The countries in the East Africa region are all experiencing impressive growth rates, with Mozambique averaging over 7 percent annually, Tanzania close to 7 percent, Uganda over 5 percent and Kenya close to 5 percent.[28] However, despite these growth rates, there has only been limited economic and social development. Looking at data for per capita income, poverty rates, and the Human Development Index (HDI) reveals a better picture of the low state of development. As shown in table 1, despite these high growth rates, poverty rates are still high, and most countries still have low HDI rankings—an indicator that strives to give a more comprehensive measure of a country's level of human development based on education, life expectancy, and income factors. Of particular concern is that even with impressive growth rates, poverty rates and joblessness rates remain very high. And there is only a weak relationship between growth and poverty reduction and job creation.

STATUS WITHIN THE REGION

Every country in East Africa has development priorities that need to be addressed. In Kenya, Tanzania, and Uganda, in addition to broader national developmental concerns, there are also concerns regarding development within the

TABLE 1. A snapshot of the scale of development needed

Country	GDP Growth Rate (%)	GDP per Capita	Poverty Headcount Ratio (year)	HDI (rank)
Kenya	4.7	994	43.4% (2005)	0.535 (147)
Mozambique	7.1	593	60.7% (2009)	0.393 (178)
Tanzania	7.0	695	43.5% (2012)	0.488 (159)
Uganda	5.8	572	37.8% (2013)	0.484 (164)

Note: Gross domestic product (GDP) growth rates are for 2013 only. GDP per capita is in current dollars. The poverty headcount ratio is at $1.25 a day (purchasing power parity) (percentage of population).

Source: Human Development Index (HDI) data are from the U.N. Development Program. The data source for all other indicators is the World Bank Development Indicators.

[28] This is using World Bank data for 2010 to 2013.

specific regions where natural resource discoveries have been made. Mozambique's natural gas finds are offshore and thus do not warrant the same kind of local concerns regarding community development. The oil discoveries in Kenya, Tanzania, and Uganda, however, if not managed well, have the potential to create tension and societal conflict in the regions of the discoveries. Concerns about the local communities that are not receiving sufficient developmental benefits from the use of their land must be addressed across a range of issues—including ensuring sufficient compensation and opportunity from those whose land is being used for extraction, refineries and so on; addressing the perceptions of inadequate job opportunities for those whose livelihoods are being shifted away from traditional forms of income generation like agriculture and are left with few alternatives; and guaranteeing suitable community development and reinvestment of revenue in the area where extraction is taking place and resource revenue is being created. Local communities that suffer land losses and employment or traditional income generation losses, or that witness large national revenue increases without seeing local benefits will clearly feel dissatisfied and disenfranchised. Thus, for the sake of maintaining good local relationships and avoiding potential conflict, local development needs to be a priority both for national governments and for major corporations operating within the region.

A 2015 study by EPRC and AGI reveals that Uganda's Albertine Graben region, where oil has been discovered, is facing a number of challenges, including environmental concerns due to the proximity of resources to a national park.[29] Tensions in the region have been exacerbated to some degree due to an influx of people seeking to benefit from the oil discovery through employment in the sector or a supporting sector. Those who originally lived in the area are concerned about not being sufficiently compensated for their land or not being able to prove their entitlement to compensation, in addition to having to compete with newcomers for employment.

Similar concerns exist in Kenya's Turkana region, where, in addition to the above-mentioned issues, socio-economic indicators put this region well behind the rest of Kenya in terms of development. A news article written around the time of oil discovery there states: "More than 96 percent of its predominantly pastoralist population are categorized as poor, the highest proportion in the country."[30] Turkana also trails near the bottom of the nation in spending on employment, literacy and health care. Only 39 percent of the youth ages 15–18 years in Turkana attend school, compared with the national average of 70.9 percent.[31] Ensuring that the Turkana region receives benefits from the oil that is coming from it will be critical for ensuring that the inequality-related issues that can breed conflict, like those seen in the Niger Delta, are not repeated.

The 2015–2016 drop in commodity prices has halted oil extraction activities in the region. Still, oil companies are now investing in infrastructure development there. In fact, following the discovery of oil in the region, companies have been building roads and constructing commercial housing for their employees.[32] Some changes have been advantageous for the region: Lands values have increased and local businesses have their revenues grow too. Still, these changes can have harmful consequences on the ecosystem, as documented by the World Resources Institute.[33] This damage is doubly problematic as land provides the key resource and livelihood support for many residents of the Turkana region.

Mtwara and Lindi, the Tanzanian port cities on the Indian Ocean where natural gas reserves have been found, have also not benefited from the same degree of development as other parts of the country, especially

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[29] See http://www.observer.ug/business/38-business/38343-oil-to-worsen-livelihoods-of-local-residents-new-report

[30] Ann Weru, "KENYA: Oil, hope and fear," (29 May 2012), IRIN.

[31] See http://www.irinnews.org/report/95547/kenya-oil-hope-and-fear.

[32] See http://www.newsfultoncounty.com/economics/news/1424619-kenya-oil-companies-dont-drill-they-develop

[33] See http://www.wri.org/resources/presentations/turkana-maps

when compared with the larger port city of Dar es Salaam. Historically, it could take up to two days by road to reach Mtwara from Dar es Salaam, the city farther south of the two, due to the difficult travel conditions—*The Economist* noted in 2014 that construction of a road from Dar es Salaam to Mtwara began almost 50 years ago and was not yet finished in 2013.[34]

Governments and the companies working in the region are attempting to address these issues. In November 2015, Uganda passed the Public Finance and Management Act of 2015.[35] The act states that 6 percent of the revenue from royalties arising from petroleum production will be shared among local governments from the region from which the oil was extracted. The bill also established the Petroleum Fund where will be paid accrued petroleum revenues. As of January 2016, the fund holds a reported $63 million.[36] CSOs, however, are critical of the way that this 7 percent is intended to be used, which is something that needs to be addressed.

In Kenya, the government has already passed a constitution that seeks to devolve power to the different counties, but this presents both benefits and challenges for Turkana. *The Economist* article noted above states that "the Kenyan government has professed its commitment to ensuring 'natural resources should generate long-term economic and social benefits for the country and in particular for the host communities,' also indicating that 'this will involve reviewing the existing legal and regulatory framework to conform to best international practice and to align it with the new constitutional dispensation.'"[37] Achieving this will, of course, be a challenging feat. CSOs in the area, like the Friends of Lake Turkana, are working toward ensuring that justice is done for both local communities and the environment. Companies in the region—specifically, the Africa Oil Corporation, which is Tullow Oil's exploration partner in Turkana—have committed to training and employing local residents, as an article in the *Daily Nation* indicated in 2013.[38] But this has not stopped the company from being the target of protests and unrest in the area—demonstrating the difficulty involved in working with a community that has long gone underserved and is now concerned about reaping less than its fair share of benefits.[39]

In 2012, the Tanzanian government launched a project to build a 512 km pipeline from Mtwara to Dar es Salaam. The $1.33 billion project was financed by Chinese loans and grants from the World Bank and the African Development Bank. The construction of the pipeline was heavily contested by the residents of the Mtwara region as they were wary of the potential environmental damage the construction of the pipeline could engender. The residents were also asking for increased transparency over the handling of natural resources and the contracts signed with foreign companies.[40] till, despite the protests, the project was completed in early 2015, with trial tests starting in July 2015.[41] The increased supply of natural gas to the capital will help meet the increasing demand for electricity and relieve power shortages.

Similarly, in 2014, the citizens of Mtwara also protested—resulting in the death of one person—after the government indicated plans to pipe natural gas to Dar es Salaam and refine it there instead of in the region. Clearly, these kinds of concerns—that local communities, are not seeing benefits and job creation in their region resulting from the resources being extracted there—need to be addressed.

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[34] "Tanzania's Gas Boom: The Mtwara Rockefellers," (April 20, 2013), *The Economist*. Available online: http://www.economist.com/news/middle-east-and-africa/21576412-gas-bonanza-brings-hopes-wealth-mtwara-rockefellers

[35] See http://www.finance.go.ug/index.php?option=com_docman&Itemid=7&task=doc_download&gid=434

[36] http://allafrica.com/stories/201601071098.html

[37] Ibid.

[38] See http://www.nation.co.ke/business/Turkana-Tullow-Oil-Drilling/-/996/2052298/-/quj6tb/-/index.html.

[39] See http://www.reuters.com/article/2014/10/10/kenya-tullow-idUSL6N0S54VE20141010.

[40] See https://ejatlas.org/conflict/mtwara-dar-es-salaam-gas-pipeline

[41] See http://uk.reuters.com/article/tanzania-natgas-idUKL1N12B0EX20151011

ADVANCING POLICIES FOR DEVELOPMENT PRIORITIES

Addressing national development concerns will be very important for every country in East Africa, and doing so while also addressing the developmental concerns of local populations will be a difficult balancing act. Governments, CSOs, local communities, and oil companies all have a role to play in ensuring that practices in the region promote the equitable use of resource revenues for both local and national development.

Having laws in place that clearly spell out the formula for revenue sharing will be important, and consulting all the relevant stakeholders in crafting such a formula will also be critical. It is not likely that everyone can be satisfied, but at least some degree of consensus can be built that allows policies to be put in place that are found to be reasonably equitable.

ACHIEVING ECONOMIC GROWTH AND STABILITY THROUGH THE FISCAL MANAGEMENT OF NATURAL RESOURCE REVENUES

As discussed earlier in this paper, the East African countries have large development financing gaps, and oil and natural gas revenues can go a long way toward filling these gaps. However, using revenue in a way that does not negatively affect the broader economy can be a challenge for countries that have not designed effective management strategies. Dutch disease, which is commonly discussed in association with oil discoveries, occurs when a country, after acquiring a larger amount of natural resource revenue, also increases its spending a great deal, thus making its currency become overvalued, which then negatively affects its economy's other sectors. Manufacturing or (more likely, in most African countries) the agricultural sector is then less competitive because of the overvalued currency. In any case, these sectors tend to not be very strong, so extractive industries then crowd out further investment in other sectors and in turn also limit job creation in these sectors. Thus, a careful balance must be struck when managing resource revenues for development. Each country will, of course, need to pursue different strategies based on its specific context.

In order to avoid Dutch disease, many countries use sovereign wealth funds (SWFs) or enact fiscal rules that limit the spending of government resource revenues. These SWFs help to stabilize the macroeconomy, allow more predictability in government budget allocations, and provide a balance between short- and long-term priorities for a country's resource revenues. Norway invests its natural resource revenues in the Norwegian Government Pension Fund, Trinidad and Tobago has its Heritage and Stabilization Fund, Kuwait has its Investment Authority, and Nigeria now also has a stabilization fund. The range of reserves in each of these different funds is quite large, from over $800 billion (Norway)[42] to about $5 billion (Trinidad and Tobago).[43] SWFs serve multiple purposes, but a 2014 Chatham House report argues that their most important purposes are to try to protect natural resource revenues from political pressure and to stop volatile oil prices from negatively affecting economies.[44] The arrangements for such funds can differ; for instance, Norway puts all oil revenues into its SWF and only uses the interest earned for budgetary spending, while Trinidad and Tobago only puts certain revenues beyond its anticipated oil revenues into its SWF. It is anticipated that Ghana will set aside a third of its oil revenues in its Heritage and Stabilization Funds.[45]

It is a difficult task for a country to balance the spending, stabilizing, and saving of its oil and natural gas revenues, and it is even more challenging when the country has very real developmental needs—as one can see in East Africa.

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[42] See http://www.bloomberg.com/news/2014-07-23/world-s-biggest-wealth-fund-reviews-8-billion-russian-holdings.html.

[43] See http://www.swfinstitute.org/swfs/heritage-and-stabilization-fund/.

[44] See http://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/0113pr_ugandaoil.pdf.

[45] Ibid.

There is no correct model for each country, but they must all take into account their competing priorities.

STATUS WITHIN THE REGION

Each country in the East Africa region is well aware of the importance of having a strategy for using its natural resource revenues in a way that promotes development while not allowing the misuse or overspending that could overwhelm its economy and cause Dutch disease. This subsection briefly reviews the status of each country.

The Public Finance and Management Act of 2015,[46] which details how Uganda's oil revenues are to be use (particularly in infrastructure and agriculture), also created the country's sovereign wealth fund, the Petroleum Revenue Investment Reserve, held at the Bank of Uganda. According to the Natural Resource Governance Institute (NRGI) consultant Paul Bagabo, however, the establishment of the fund is no guarantee of sound management of oil revenues.[47] The act, while a welcome step, could be supported by increased transparency and enhanced fiscal rules and budget discipline. And, though the SWF may have enormous benefits for its citizens, he warns that legislators must avoid the temptation of making it into a "slush fund."

In Kenya, the government has been doing a great deal to prepare for revenues from oil production. The country is anticipating the creation of an SWF, which has been highly publicized, and a draft bill is available that the public can access.[48] Kenya's former Central Bank chairman, Mbui Wagacha, stated in early 2014 that "we are unique in Kenya in that we are setting up our sovereign wealth fund prior to the phase of exploitation of natural resources."[49] However, though Kenya is moving forward on this issue more rapidly than other countries in the region, CSOs have raised concerns; for instance, the Kenya Civil Society Platform on Oil and Gas stated in a 2014 report that even though the government of Kenya is proposing to establish this SWF, "it is not clear yet what fiscal rule the government will adopt to determine the size of annual spending from the Fund."[50]

Tanzania is also planning to set up of its own SWF, with news from recent years indicating that it would start operating in 2015, though this has not yet come to pass. In addition, in mid-2014 Tanzania's controller and auditor-general stated that the country also plans to set up a special independent auditing unit specifically designed to monitor the use of resource revenues in the SWF and to "ensure that gas revenues are invested for the benefit of present and future generations, not merely absorbed into the government's annual operating budget."[51]

Mozambique is also planning an SWF, according to news sources cited in May 2014.[52] However, in November 2014, the International Monetary Fund indicated that Mozambique needs to strengthen the management of its public finances ahead of anticipated natural resource revenue increases and also to adopt fiscal rules that would improve the management of such resources, along with improving the transparency of public investment.[53]

POLICY PRIORITIES FOR THE EAST AFRICAN COUNTRIES FOR USING REVENUE FOR DEVELOPMENT

It is clear that each of the four East African countries is at a different stage regarding its plans and policies for using its resource revenues in a manner that will allow for sustainable revenue flows and management that promotes development. The priorities for each country in the region are also, of course, going to be different; but clearly it will be important for all the countries to have the most effective

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[46] See http://library.health.go.ug/publications/health-system-financing-health-financing/budgets/uganda-public-finance-management-act

[47] See http://www.resourcegovernance.org/news/blog/ugandas-oil-revenue-management-framework-solid-start-not-nearly-enough

[48] See http://www.cickenya.org/index.php/legislation/item/399-the-national-sovereign-wealth-fund-bill-2014#.VHK5tJPF_yA.

[49] See http://www.bloomberg.com/news/2014-04-02/kenya-plans-to-create-sovereign-wealth-fund-before-oil-output.html.

[50] See http://kcspog.org/kcspog-agenda-for-kenyas-oil-and-gas-development/.

[51] See http://www.trust.org/item/20140814033748-h6ies/.

[52] See http://www.iol.co.za/news/africa/mozambique-considers-wealth-fund-1.1696199#.VHKzDpPF_yA.

[53] See http://www.bloomberg.com/news/2014-11-06/mozambique-needs-to-ready-for-gas-boom-revenue-imf-says.html.

policies in place for managing revenue resources in advance of receiving them.

In Uganda, there is a variety of opinions regarding how best to invest the oil revenues. Joseph Mawejje and Lawrence Bategeka of the Economic Policy Research Centre indicate in a working paper titled *Accelerating Growth and Maintaining Generational Equity Using Oil Resources in Uganda* that there is a need to cap spending from oil revenues, to create rules on allowable investment for the future petroleum fund, to push for an enhanced role for an investment advisory committee, and to create clearer plans based on the anticipated oil revenue and the existing development plans.[54]

A 2014 World Bank report on Mozambique recommends that the country

> *adopt the Fiscal Sustainability Framework (FSF), a fiscal policy framework which allows for increasing public investments with the aim of accelerating growth in the non-resource sector. . . . In order to function properly, fiscal targets and rules must be tailored to the specific circumstances of Mozambique, and they must enjoy broad political support and a credible government commitment. Implementation of such a framework will be complex and require building the Government's capacity in a number of areas.*[55]

Numerous technical experts are working toward creating revenue management strategies and fiscal rules that will allow these countries to best achieve their individual development and savings goals that allow for macroeconomic stability, and this serves as an excellent example of how country-specific strategies are necessary. However, it is going to be critical for all four countries to have in place good governance and transparency systems regarding the anticipated structure for using such resources and to be certain that their institutions do not succumb to political manipulation.

In addition to the priority for each country to set up effective systems for its own fiscal management, much research has been done to broadly examine what can be done for African countries that are seeking to balance development goals with maintaining financial and economic stability. For instance, a report by the Center for Global Development indicates that "resource-rich African countries can benefit from setting up three separate SWFs over time: (1) a stabilization fund; (2) a development fund; and, lastly, (3) a saving fund."[56] A working paper by Thouraya Triki and Issa Faye of the African Development Bank highlights the development potential for SWFs:

> *SWFs could be useful in supporting economic diversification given that they often invest in a wide range of asset classes. They also have long-term investment horizons and exhibit higher risk tolerance than central banks in managing foreign currency reserves. Thus, Africa-based SWFs can play an important role in supporting their local economies by directly providing capital, or by encouraging their international investees to invest in African companies.*[57]

Ensuring that effective fiscal rules are in place for managing revenue and for using vehicles like SWFs to come up with creative solutions for development is going to be critically important for East Africa. Now is the time for CSOs to work with governments to create policies to ensure that oil and natural gas revenues are properly used for development and economic stability and growth.

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[54] See Joseph Mawejje and Lawrence Bategeka, *Accelerating Growth and Maintaining Generational Equity Using Oil Resources in Uganda* (Kampala and Washington: Economic Policy Research Centre and Africa Growth Initiative at Brookings, 2013), http://ageconsearch.umn.edu/bitstream/167526/2/111%20accelerating%20growth%20and%20maintaining%20intergenerational%20equity%20using%20oil%20resources%20in%20Ug.pdf.

[55] See http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/03/19/000333037_20140319123221/Rendered/PDF/860820PN0P13180agement0Final0140207.pdf.

[56] Center for Global Development, "Oil-to-Cash Initiative Background Paper," October 2011, http://www.cgdev.org/doc/Initiatives/Oil2Cash/Final_Formatted_Monk_and_Dixon_SWF_10.11.pdf.

[57] See http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/WPS%20No%20142%20Africas%20Quest%20for%20Development%20%20Can%20Sovereign%20Wealth%20Funds%20help%20AS.pdf.

THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN OIL AND NATURAL GAS TRANSPARENCY

CSOs play a critical role in ensuring the effective management of natural resource revenues. The World Bank states that “CSOs have also become important actors for delivery of social services and implementation of other development programs, as a complement to government action, especially in regions where government presence is weak.”[58] The importance of such groups being involved in policymaking was further highlighted on a larger scale in 2009, when Ban Ki-moon, secretary-general of the United Nations, said, “Our times demand a new definition of leadership—global leadership. They demand a new constellation of international cooperation—governments, civil society, and the private sector, working together for a collective global good.”[59] A well-organized and effective civil society community is particularly important for holding governments to principles of transparency and accountability.

Within the East Africa region, many different CSOs are working to ensure that governments and private sector entities alike are working toward the good of local communities and citizens across the region. This section highlights the activities of the CSOs in each of the countries covered in this paper, including details of their efforts to ensure the transparency of resource revenues and the fair treatment of individuals in oil and natural gas regions.

Ensuring that the CSOs are supported and protected so that they can play their role in keeping governments accountable to their people is very important, and requires broad-based support and international attention. Thus it is useful to briefly describe the roles of CSOs in each country.

KENYA

Kenya has a vibrant civil society sector working on issues of natural resource revenue management. The Kenya Civil Society Platform on Oil and Gas (KCSPOG) brings together many of the different CSOs working on promoting issues relevant to oil and natural gas, including land rights and environmental concerns, constitutional understanding and legislative affairs, human rights, security issues, and trade. KCSPOG includes groups like the Friends of Lake Turkana, which works with other community and development partners to protect “the environment and the people and wildlife that depend upon it by linking environmental security, human rights, and social need.”[60] The Friends of Turkana currently has made the oil finds in the area a focus of its work and now has projects focused on resource governance and conservation management.

In a 2014 report, KCSPOG highlighted some of the issues of primary concern to those in the region, specifically stating that

> *as Kenya begins the journey of becoming an oil-producing country, civil society organizations and citizens alike have expressed worry at the haste with*

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[58] See http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20101499~menuPK:244752~pagePK:220503~piPK:220476~theSitePK:228717,00.html.

[59] See http://www.un.org/en/civilsociety/.

[60] See http://www.friendsoflaketurkana.org/our-work.

which the country is developing its frameworks for the sector. There is also unease about the low level of public consultations, the potential for vested interests to be rooted in the frameworks, and the potential for oil to divide the people. Concerns have also been raised about the threat that oil poses to the environment, livelihoods of communities and security.[61]

KCSPOG provides a variety of specific recommendations, including legislation to be passed, and it also gives recommendations for broader policy standards, like legalizing rights to FPIC and complying with EITI's standards.

TANZANIA

Tanzania's civil society comprises many different organizations working for increased transparency in the natural gas sector. PWYP has worked to support and increase CSOs' capacity in the country. Networks also exist whose efforts focus on these issues—including the Mazingira Network Tanzania, which connects over 70 different environmentally focused organizations in Tanzania; and the Policy Forum, a network of over 100 different CSOs in the country, which has many member organizations that are working toward transparency in public financial accountability.[62]

There is, however, quite a bit of concern within the country regarding transparency in the oil and natural gas industry, along with concerns that CSOs are playing a bit of catch-up compared with other countries in this region. The Natural Resource Governance Institute states in its country snapshot that "local civil society groups focused on mining issues in Tanzania have only recently begun to look at revenues generally—with a growing chorus of discontent over Tanzania's royalty rate and overall government take from mining—and at revenue transparency specifically."[63]

Recent news articles have indicated that the contracts that have been made are under scrutiny for not having what is thought to be an acceptable royalty rate for the government, as mentioned above, and also for the arrests and releases of senior government officials who are facing allegations of not upholding the transparency standards that currently exist in law.[64] Analysts and recent media reports imply that these struggles are likely to continue, demonstrating the need for CSOs in the country to push for better policies encouraging transparency and to improve their ability and capacity to serve as watchdogs to ensure that existing standards are enforced.

UGANDA

Uganda's CSOs are quite advanced regarding transparency issues in the oil and natural gas sector. The Civil Society Coalition for Oil, for example, is a network of over 40 CSOs whose mission is "to maximize the benefits to the people of Uganda from oil and natural gas discoveries by promoting social, economic, and environmental sustainability in exploration and production activities."[65] The website "Oil in Uganda" is also an excellent example of an initiative that is pushing for transparency in the sector by working to provide knowledge to citizens of the country as well as interested stakeholders around the world. This initiative's stated purpose is "to promote transparent, constructive, and well-informed public and policy debate, in the belief that this is essential for oil management that is fair, prudent, accountable, and beneficial to all Ugandan citizens, including future generations."[66]

However, in recent years there has been much criticism of the government's interaction with civil society, including a 2012 Human Rights Watch report that highlights the intimidation and obstruction of CSOs in the country.[67] And

[61] See http://kcspog.org/wp-content/uploads/2014/08/KCSPOG_Agenda_Setting_Report.pdf.

[62] See http://www.theguardian.com/global-development/poverty-matters/2013/sep/30/tanzania-civil-society-economic-justice.

[63] See http://www.resourcegovernance.org/countries/africa/tanzania/transparency-snapshot.

[64] See http://www.ft.com/intl/cms/s/0/b789caaa-6431-11e4-bac8-00144feabdc0.html#axzz3LKaH1wBQ.

[65] See http://www.oilinuganda.org/civil-society-coalition-for-oil.

[66] See http://www.oilinuganda.org/about.

[67] See http://www.hrw.org/sites/default/files/reports/uganda0812ForUpload.pdf.

it does not appear that such issues can be easily resolved. At the joint Brookings-Oxfam event in 2014, the head of a CSO called Advocates Coalition for Development and Environment (known as ACODE), an organization that chairs and hosts the Civil Society Coalition for Oil, explained the importance of "safeguarding the space for civil society."[68] He indicated that "the biggest danger of countries like Uganda is that . . . they are experiencing democratic reversals, and how oil comes in and aid and facilitates that reversal is a major problem."[69]

MOZAMBIQUE

Mozambique has many different CSOs working to promote transparency and the equitable use of resources in the natural gas sector, working to address issues of rural community development, environmental protection, and public accountability. The country appears to be working hard to meet better standards of transparency while also failing to do so in some ways. As discussed in the following section on international transparency standards and EITI, since 2012 Mozambique has been an EITI-compliant country, which indicates clear efforts aimed at pursuing transparency. However, a 2013 report by Observatório Moçambicano da Governação stated that the country received a failing score in the 2013 Resource Governance Index published by the Revenue Watch Institute (now the Natural Resource Governance Institute) due to a variety of factors, including a lack of laws governing how to manage resource revenues.[70]

At the beginning of 2014, Adriano Nuvunga, of the Centre for Public Integrity of Mozambique, discussed the work that the center—which hosts the national coalition for PWYP in the country, working in cooperation with many of the above-mentioned CSOs—is doing in Mozambique. He indicated that because of the long timelines for the profitable extraction and exporting of these resources, ensuring that good policies are in place for revenue management and government contracting will be critical for benefiting citizens in the local regions and in the country at large.

RECOMMENDATIONS FOR ADVANCING THE ROLES OF CSOS IN OIL AND NATURAL GAS TRANSPARENCY

As these country overviews indicate, CSOs in the region face different obstacles, and to date they have had varying achievements. CSOs in Uganda show the ability to work together and promote a cause, but also show how governments can push back against their efforts. Tanzania is advancing in this area, but it also shows the importance for growing the civil society sector and using it to promote transparency. Mozambique serves as a clear example that, despite implementing EITI and becoming compliant with these international transparency standards, failing scores for resource governance indicators mean that much work still needs to be pushed for by CSOs to ensure that governments are really meeting necessary standards of transparency. Finally, the CSOs in Kenya have demonstrated through the KCSPOG report that there are many ways in which a government can improve its efforts to achieve transparency and that a broad-based approach is necessary to achieve results.

In the future, support for the development, protection, and enhanced voice of civil society will be important throughout the region to ensure that oil and natural gas resource revenues are being used transparently and effectively for the greater good of these countries.

[68] See http://www.brookings.edu/~/media/events/2014/2/20%20africa%20oil%20boom/20140220_east_africa_transcript.pdf.

[69] Ibid.

[70] See http://publishwhatyoupay.org/sites/publishwhatyoupay.org/files/2013%20Resource%20Governance%20Index-Mozambique.pdf.

INTERNATIONAL STANDARDS OF TRANSPARENCY: EITI, PWYP, AND DODD-FRANK

In addition to the efforts by individual country governments and by CSOs that are pressing for more transparent processes within their own countries, several other initiatives are also working on global efforts to promote transparency in the extractive industries, with varying degrees of success in different countries. Extractive Industries Transparency Initiative (EITI), Publish What You Pay (PWYP), and Section 1504 of the Dodd-Frank Wall Street Reform Act are all different examples of large-scale initiatives to promote transparency in this sector. This section briefly describes PWYP and Section 1504, and it examines EITI and its status within the individual countries in the region in some detail.

PWYP is a global network of over 800 CSOs that work to "promote an open and transparent extractive sector."[71] It uses its network connections and influence to try to drive policy changes in the extractive sector by engaging relevant stakeholders and governments. PWYP plays a key role in engaging on issues like EITI and governmental policies for the extractive industry, and it has even played a role in the additions to the Dodd-Frank legislation that are relevant to the extractive industry.

Section 1504 of the Dodd-Frank Wall Street Reform Act requires extractive industry companies to register with the U.S. Securities and Exchange Commission and to publish a record of their payments to foreign governments and the U.S. government in their annual reporting to the commission. The requirements of this law are also, in turn, very similar to the transparency promoted by EITI, which does related work on a global scale with respect to all the country governments that receive revenue from the oil, mining, and natural gas, sector and the companies working within these sectors in their respective nations.

EITI is a coalition of governments, companies, and CSOs around the world that are working to promote transparency in the management of revenues from the extractive sectors—mining, oil, natural gas, and the like. Countries that wish to be considered EITI-compliant must adhere to the EITI Standard, which indicates disclosure requirements for taxes and payments to governments made by oil, natural gas, and mining companies. The data on these payments are then disclosed in an annual EITI report, written by an independent administrator, which allows the people of each country to see in a comprehensible manner how much money their governments are receiving from these companies. There are currently 31 EITI-compliant countries, a large majority of which (18 of 31[72]) are based on the African continent; and there are 17 candidate countries, with 5 of these also on the African continent.[73]

[71] See http://www.publishwhatyoupay.org/about.

[72] These countries are Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Democratic Republic of Congo, Ghana, Guinea, Liberia, Mali, Mauritania, Mozambique, Niger, Nigeria, Republic of the Congo, Sierra Leone, Tanzania, Togo, and Zambia.

[73] These countries are Senegal, Seychelles, Madagascar, Ethiopia, and São Tomé and Príncipe.

STATUS WITHIN THE REGION

Within East Africa, Tanzania and Mozambique are EITI-compliant countries. Tanzania joined EITI as a candidate country in 2009 and became a compliant country in 2012. Its membership in EITI has been instrumental in fostering dialogue among the population on the real benefits received from the extractives sector—particularly mining. There have been several articles published in local media criticizing the current governance of the sector—regarding royalty rates and so on—but it is not clear how responsive the government will be vis-à-vis changing its negotiation strategies in the future. Despite this, the country has made strong progress regarding transparency.

Mozambique also became a candidate country in 2009 and became fully compliant in 2012. The country has been seeing its revenues from the extractive sector increase a great deal in recent years, with the last EITI report showing an increase of nearly 60 percent from the previous year. Many of the country's larger-scale projects are still in their initial phases, so the fact that it is already EITI compliant before many of these projects are completed should be a great boost for transparency in the country.

Uganda and Kenya are not EITI candidates nor are they compliant. The government of Kenya, however, has publicly indicated interest in joining EITI, but has stated that it will do so after it begins producing oil. Some international and local nongovernmental organizations and CSOs have criticized the government's hesitation because the pre-production exploration phase can also involve significant payments from companies to the government and because EITI's purpose is to inform and educate citizens about how their country's extractive sector operates and thereby improve governance and accountability. The phase before production begins is clearly an important time during which to pursue EITI membership. The government of Uganda has indicated interest in joining EITI, but no exact commitments regarding when have been made.[74]

ADVANCING POLICIES FOR TRANSPARENCY IN THE EXTRACTIVES SECTOR

Although EITI cannot ensure that oil and/or natural gas revenues are used equitably and fairly, becoming an EITI-compliant country at least gives CSOs and the broader populations of these countries the ability to know how much money is being received by the government and to push for effective use. Transparency is the first step in being able to ensure that natural resource revenues are being put to good use.

Now is the right time for Kenya and Uganda to pursue EITI compliance, because revenues are already coming in and reporting systems will be in place from the beginning of oil production, if the EITI process starts now. East Africa has a great opportunity to start on the right foot regarding transparency, and it is up to its governments and CSOs to enable it to seize this opportunity.

[74] See http://www.publishwhatyoupay.org/newsroom/blog/what-uganda-could-gain-joining-eiti.

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