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CORRUPTION FIGHTS BACK: LOCALIZING TRANSPARENCY AND EITI IN THE NIGERIAN ‘PENKELEMES’

Abstract

This study explores how the global transparency norm is localized in the Nigerian extractive industry. Transparency is theorised as a process which can be analysed in terms of rules, interactions, power games and context. Nigeria is conceptualized as a ‘*penkelemes*’ – a concept which denotes how traditions, norms and practices are intertwined with a system of corruption, kinship and patronage networks. Three main insights emerge. First, the complex motives and ability of local actors to balance demands for transparency from the international community with participation in the corrupt local political system determines which international norms they adopt. Second, the struggle for power over the transparency process determines the local understanding of transparency. Third, the link between transparency and corruption is paradoxical. Corruption conditions the enactment of transparency but even this corrupted transparency is useful in fighting corruption. Thus, transparency becomes part of the problem as well as part of the solution.

Keywords:

EITI, Corruption, Nigeria, Transparency, Localization

Introduction

Transparency is rapidly emerging as a new global governance norm which holds out great potential for enhancing public accountability and reducing corruption. Indeed, transparency is usually held out as a solution to the problem of the ‘resource curse’ which besets several of the resource rich countries (Goldsmith, 2007; Santiso, 2015). Thus, transparency has become the global norm of choice in the design of energy policy interventions and in the governance of the extractive industry in these resource rich countries. However, this raises issues regarding the extent to which the global transparency norm is enabled or constrained as it interacts with local norms, institutions and cultural practices.

The idea of transparency as the governance norm of choice in the extractive industries has been diffused through institutions such as the Extractive Industries Transparency Initiative (EITI). At its core, the EITI process is about providing an account to the public, it demands the full government disclosure of extractive industry revenues, disclosure of all material payments to government by oil, gas and mining companies, and a credible independent audit (Eigen, 2006). It is predicated on the assumption that improved transparency will result in greater accountability, good governance and a reduction in corruption (Bauhr et al., 2019; Eigen, 2006). Since the emergence of EITI in 2002, a stream of research on EITI has sought to explore the ways in which the transparency norm and its corollary, the EITI, have diffused and become institutionalised in global energy policy and extractive industries governance (Gillies, 2010; Haufler, 2010). However, the process of its diffusion within African countries remains significantly under-researched.

Dominant within the transparency and EITI literature is the view of transparency as a ‘thing’ which has a fixed meaning, content, shape and boundaries: it is taught, advocated and internalized. We argue that this view is limited and posit an alternative view drawn from the

political science and accounting literature which argues that transparency is better understood as a social process involving agents, objects, contexts, power and trust (Albu & Flyverbom, 2016).

Taking a processual view allows us to interrogate more closely the transparency norm and its attendant institution – the EITI. We ask how the transparency norm and the EITI have been localized as governance norms within the extractive industry in African countries. How they have been contested and reshaped as they are confronted with local norms, institutions and traditions. Adopting this processual approach allows us to build on and advance a stream of work, published in this journal which links the adoption of transparency to the building of legitimacy (De Fine Licht et al., 2014), reputation (David-Barrett & Okamura, 2016) and the signalling of honesty and integrity by corrupt governments (Schnell, 2018). More specifically, we advance the work of David-Barrett and Okamura (2016) who argue that the EITI is a reputation intermediary as its adoption and implementation enables reformers to signal good intentions and international actors to reward achievement. We do this by examining the process by which this adoption and implementation is done.

We focus on the localization of the transparency norm and EITI within the Nigerian extractive industry. The choice of Nigeria is deliberate as Nigeria was one of the earliest adopters of the EITI in Africa and indeed globally and has been held out as a shining example of successful EITI implementation (Eigen, 2006).

We make three main contributions. First, we highlight how the motivations of local agents in choosing which norm to adopt are complex. We show that norms are chosen so as to gain maximum advantage from foreign norm-givers while at the same time ensuring that the position of the local agent in the corrupt local system is not jeopardized. Second, we present a more nuanced view of the role power plays in the transparency process by showing that the

struggle for control over the transparency process determines how transparency is enacted as it determines the nature and quality of information disclosed. Third, we demonstrate a paradoxical link between transparency and corruption with corruption conditioning transparency and being fought against by the transparency which it conditions.

The rest of the paper is structured into six sections. In the next section, we elucidate the concept of localization. After that, we develop our understanding of transparency based on the politics and accounting literature. We then provide some background on the EITI before moving on to explore the Nigerian context and develop the conception of the Nigerian context being a '*penkelemes*'. After this, we present our findings. The last section highlights our contributions and concluding remarks.

Theorising Localization and Transparency

Localization

Political Science and International Relations literature views the spread of norms and policy through a socialization lens as a process of transfer or diffusion driven by the purposive activities of actors promoting particular interests or ideas (Stone, 2000). The emphasis is on how international actors convert local actors to these new ideas. While contestation is acknowledged, resistance to the global norm or policy is viewed as illegitimate or immoral (Acharya, 2004, 2011). Thus, the agency of local actors is downplayed.

However, a new stream of literature in this area takes a localization perspective which places emphasis on the agency of local actors and the strength of local traditions, beliefs and practices (Capie, 2008). It also recognizes that the beliefs, practices and traditions of developing nations particularly in Africa vary significantly from those of Western countries (Olivier de Sardan, 2015). Localization is seen as the active construction of emerging global

norms, policies or ideas by local actors such that these become congruent with local beliefs and practices (Acharya, 2012, p. 22).

Acharya (2012) argues that three types of acts are described by the concept of localization. The first he terms 'local initiative'. This encompasses the notion that ideas are not imposed by foreign actors; instead, foreign ideas which appeal to the moral persuasions of local actors are proactively sought out by them. Second is the use of the foreign norm to frame or express local beliefs and practices. Thus, while the formal shape of the foreign norm in terms of name and structure may remain intact, its contents are infused with local traditions, beliefs and practices. Third is the changing of the formal shape and content of foreign norms on the basis of the beliefs and practices of the recipients. Adopting this frame focuses our attention on the agency of local actors and how this shaped the entry of the transparency norm and EITI into the Nigerian political space. But before we delve into this, let us develop an understanding of what transparency is.

Transparency – thing vs process

Over the last three decades, transparency has emerged as a key international governance norm. Its emergence and rise to prominence in the international arena can be traced to the founding of Transparency International (TI) to advocate for transparency as a tool for reducing corruption (Ball, 2009). Using their networks and status, TI and other advocates of transparency were effective in persuading the international political elite to adopt transparency as a key governance norm (Ball, 2009; David-Barrett & Okamura, 2016). But what really is transparency? What are its boundaries and content?

Popular definitions refer to transparency as '*lifting the veil of secrecy*' (Davis, 1998, p. 121) or the ability to look '*clearly through the window of an institution*' (den Boer, 1998, p. 105).

It is often understood through metaphors like ‘sunlight’, ‘disinfectant’ or ‘looking through a window’ (den Boer, 1998; Tsoukas, 1997) and construed as the antithesis of secrecy and opacity. This conception of transparency holds it out as standards of openness to which actors are bound and by which their behaviour will be evaluated. Underlying this conception of transparency is the idea that increased disclosure of information using a linear communication model achieves openness and thus transparency. This linear communication model involves the production of information by an actor (usually the government) who is then compelled to release the information to the public. It rests on the assumptions that the information produced by these actors constitutes a message that can be isolated and disclosed and that there is a public waiting for the disclosure of this information which is willing and able to act on it (Fenster, 2005). Thus, this conception of transparency views it as a standard of behaviour with fixed boundaries.

More recently, an alternative conception of transparency as a process has emerged. This alternative conception of transparency recognizes that the linear communication model which underpins the transparency relation between information provider and the public does not exist in a vacuum but rather exists within a social system (Meijer, 2014; Ruijer et al., 2020). Indeed, several scholars argue that transparency is better understood as an institutional relation between state and the public which can be analysed in terms of rules, interactions, power games, context, etc. (Albu & Flyverbom, 2016; Ejiogu et al., 2019; Meijer, 2013; Ruijer et al., 2020). Others have sought to problematize transparency by asking who or what should be made transparent. For instance, Roelofs (2019) argue that transparency entails not only the disclosure of data but also the disclosure of the social networks in which politicians are embedded i.e. transparency in people. For us, the challenge then becomes how to develop an understanding of the complex dynamics of the transparency process as it entered and embedded itself as a governance norm in the Nigerian extractive industry through the EITI.

How was it reshaped by local context in terms of culture, norms and power games? Before we delve into these, we develop an understanding of the EITI framework, its adoption in Nigeria and the Nigerian *penkelemes* in the next two sections.

The EITI

As transparency established itself as a global governance norm of choice in the battle against corruption, civil society actors in the extractive industry, such as the Open Society Institute and Global Witness, began to advocate for its use in combating the corruption and opacity for which the extractive industries had become notorious (Florini & Saleem, 2011). They tried to get companies involved in the extractive industry to sign up to a “Publish What You Pay” (PWYP) campaign. Companies which signed up had to disclose the payments that they made to governments. The intention was to expose corrupt payments and compel governments into explaining how the revenue which they collected had been spent. However, companies were reluctant to sign up to the PWYP campaign as they feared they would lose business from governments that did not want to risk such exposure (Rich & Moberg, 2017). To solve this problem, these civil society actors sought to shift the focus of the campaign away from the companies to the government. The result was the development of the EITI framework which sought to persuade governments to disclose revenue received from extractive industry activities as well as to require companies to publish what they paid to the government (David-Barrett & Okamura, 2016). The information from the government and the companies were to be reconciled by an independent auditor/administrator, whose work was overseen by an autonomous national multi-stakeholder working group, before the EITI report could be published. It was hoped that the government, parliamentarians, civil society organisations (CSOs), companies, the media and the public would use the information contained in the

reports to hold the government and companies operating in the extractive industry to account, thus promoting accountability and reducing corruption.

The EITI framework is codified in the EITI Standard which sets out 12 principles and several requirements which countries intending to implement the EITI framework must commit to. Nigeria was the first country in the world to formally declare its intention to implement EITI. EITI is implemented in Nigeria through the Nigerian Extractive Industries Transparency Initiative (NEITI) which was officially launched in 2004 (Eigen, 2006) and has been held up by proponents of EITI as one of the leading success stories in EITI implementation (Eigen, 2006; Shaxson, 2009).

Exploring the rationale for adoption of the EITI by corrupt countries, David-Barrett and Okamura (2016) argue that the EITI acts as a reputation intermediary which allows countries in need of a good reputation with the international community to signal good intentions and international actors to reward achievements. They find that sometimes these rewards are aimed specifically to boost the position of individual reformers within target governments. However, they also demonstrate that countries with lesser need for a good reputation with international actors are less likely to adopt the EITI and these countries are usually resource rich and very corrupt. A description which we shall see Nigeria fits perfectly. This view of the rationale for joining the EITI is consistent with the literature which posits the main rationale for institutions engaging in transparency is to generate legitimacy for these institutions (De Fine Licht et al., 2014) as well as the literature which demonstrates that highly corrupt countries adopt transparency policies with the aim of signalling honesty and integrity (Schnell, 2018).

The challenge the EITI framework poses to us is then how we are to understand the dynamics of its localization within the Nigerian context. But first we must understand the Nigerian context.

The Nigerian ‘Penkelemes’

The term ‘*penkelemes*’ is an adaptation in Yoruba (a major Nigerian language) of the English phrase ‘peculiar mess’. It gained prominence in political and socio-economic analysis when Nigeria’s Nobel laureate, Wole Soyinka, described Nigeria as a ‘*penkelemes*’ (Soyinka, 2007). While he uses the concept loosely and illustrates rather than defines it, he characterises the Nigerian ‘*penkelemes*’ as a political and social pathology (Soyinka, 2007)

To develop an understanding of this political and social pathology which is the Nigerian ‘*penkelemes*’, we take as our starting point, literature which describes Nigeria as an oil rentier state (Rotberg, 2004; Sandbakken, 2006). Oil rentier states have three main characteristics: first, they do not rely on taxation for income and so do not have any real democratic obligations to their taxpayers; second, oil revenue is used to placate and repress the population; and third there is very little room for democratic opposition (Sandbakken, 2006). In the Nigerian case, these three attributes are evident. Although a federal state, Nigeria is characterised by fiscal centralization of resources, institutions and policy (Rotberg, 2004). Revenue from oil flows directly from the foreign buyers to the central government. As oil is the main source of income, other sectors being moribund, the central government wields immense power. Throughout the country, power is exercised through kinship and patron – client networks (Campbell, 2013; Smith, 2007). Indeed, Campbell (Campbell, 2013, p. 26) notes:

In most places, power is exercised through patron-client networks without much reference to the formal structures of governance or to the Nigerian people, to whom the political elite have never been accountable....The wielding of power by oligarchs, “big men,” ogas¹,

or “kingmakers” is a West African tradition....Whoever is the chief of state is the biggest oga of all.

With the President being so powerful, although in form a democracy, Nigeria displays all the trappings of a dictatorship. The ‘national cake’, as rents from oil are commonly referred to (Adegoju, 2007), is distributed through kinship and patron-client networks. As Campbell (Campbell, 2013) notes, these kinship and patron – client networks existed in a pure state devoid of any linkages with corruption in Nigeria and other countries of West Africa. However, with the advent of colonisation and discovery of natural resources which brought great wealth and an opportunity for corruption, these kinship and patron-client networks have intertwined with corruption which is now endemic in the country to the point where it is now recognized as part of the culture (Smith, 2007).

This pervasiveness of corruption working through kinship / patron – client networks has given rise to a recognition of the ‘Nigerian factor’ which is to be considered in making decisions (Adegoju, 2007; Smith, 2007) as well as the ‘Nigerian way’ of doing things (Adegoju, 2007; Enahoro, 1992). The ‘Nigerian factor’ is difficult to describe, in a sense it is corruption, but then it is also much more. Smith (2007, p. 226) attempts to capture this amorphous concept thus:

... when Nigerians speak of the Nigerian factor, they are referring not only to corruption per se but to the pragmatic choices that individuals must make in the context of their obligations to deliver to their people whatever share of the national cake they can capture.

The ‘Nigerian way’ of doing things is the search for and use of the Nigerian factor in everyday life (Enahoro, 1992). Here, people seeking to influence the actions of other individuals (especially public officials) actively look for those kinship ties, the patron-client relationships,

the individual's price through which the official can be 'reached'. This 'reaching' out to the individual is done unobtrusively so that decisions appear to be made without bias when indeed they are not.

The Nigerian 'penkelemes' while being peculiar is not total. It is not total in the sense that amongst Nigerians there exists a recognition that the new and corrupted value system is in conflict with the traditional and moral value system (Adegoju, 2007); that corruption is a problem that needs to be addressed and that without corruption, Nigeria could be so much better (Achebe, 1984). Indeed, several authors note that there is an overwhelming sense of discontent with the situation amongst Nigerians and yet an acceptance of the situation as it is (Maier, 2002). Thus, within the 'Nigerian' exists the contradiction of participating and benefiting from the corrupted system and at the same time yearning for its change. Trying to explain the roots of this contradiction, Smith (2007, p. 225) argues:

...Nigerians' ambivalence about corruption is explained by the realities they face. To the extent that ordinary Nigerians are participants in corruption as well as critics and victims, it is because they are pragmatic: the stakes for individuals in Nigeria are tied ideologically and materially to the social groups to which they belong.

Nowhere is this pragmatism more evident than amongst the 'ogas'. Indeed, most commentators on Nigeria conclude that the problem with Nigeria is its leadership who exploit the discontent felt by citizens but are unwilling to grapple with the real issues of corruption (Achebe, 1984; Maier, 2002), instead, they use anti-corruption initiatives as smokescreens to divert attention and go after individuals in rival kinship and patron – client networks (Oarhe, 2013).

Also, and importantly for us, the 'penkelemes' is a site of struggle over control of information. The 'ogas' use their networks and resources to bribe and coerce journalists and other providers

of information to the public to ensure favourable coverage of people and organisations (Ciboh, 2014, 2016). While many journalists submit to the political pressures, some rebel (Ojebode, 2013) and so the ‘penkelemes’ becomes a site of struggle over control of information.

It is into this ‘penkelemes’ that the transparency norm enters into the Nigerian extractive industry via the EITI. For us then, the question becomes *‘How then does the transparency adapt to this ‘penkelemes’ and how does the ‘penkelemes’ adapt to the transparency norm?’*

Methods and Results

Our analysis of the localization of the transparency norm and the EITI in Nigeria draws on a wide range of data sources which are detailed in Appendix 1 and include NEITI and EITI documents, CSO reports, media articles and interviews, forensic audit reports, transcripts of legislative hearings etc. Following David-Barrett and Okamura (2016), we also draw on records of conversations recorded by the U.S. State Department and divulged by WikiLeaks. While we acknowledge that the accounts provided in these ‘leaks’ might reflect the biases of the narrator, we believe that they provide us with an extra layer of evidence which reveal the thoughts, motivations, negotiations and actions of actors as well as the inner workings of institutions. We had also sought to obtain interviews from NEITI officials and board members as well as key government officials. However, our requests were declined with the actors approached citing confidentiality agreements which prevented them from granting interviews.

The analysis of the data was done using a two-stage process tracing approach (Bennett, 2010; Collier, 2011). In the first stage we sought to characterise the localization process by characterising the key steps in the process. We focused on the unfolding of events over time and developed descriptive snapshots of a series of specific moments (Collier, 2011). In the second stage we develop an explanatory frame for the localization process. To do this, we first

developed several alternative explanations for the events which we had described in the first stage. We then sifted through the data for evidence which would support or overturn these alternative explanations. To do this, for each piece of evidence we asked four questions which correspond with the four tests outlined by Bennett (2010): i) does it provide necessary but not sufficient evidence to support the explanation; ii) does it provide sufficient but not necessary evidence to support the explanation; iii) does it provide neither sufficient nor necessary evidence to support the explanation; iv) does it provide necessary and sufficient evidence to support the explanation. Questioning the evidence in this way ensured that data was triangulated and explanations were accepted only if there was adequate evidence to support them. We outline the explanatory frame arrived at in the subsequent sections.

Local initiative – the reaching out

The first questions we asked as we approached the data are ‘who were the principal actors in bringing transparency through the EITI into the Nigerian extractive industry?’ and ‘what were their motives in so doing?’ It quickly became evident to us that there was one principal local actor, the Nigerian President at the time, Olusegun Obasanjo. Indeed, it would have been impossible to bring in such a norm without his participation for as President and ‘chief of state’, he was the ‘*chief oga*’, the democratic dictator who wielded the power of the state with very little accountability to the citizens (Vallely, 2006).

Having established this, we then turned our attention to his motives for introducing the EITI into the Nigerian extractive industry. A reading of President Obasanjo’s autobiographical account of his time as president (Obasanjo, 2014) evidences a seemingly genuine desire to see Nigeria develop. This impression is confirmed by his close aides and economic advisors (Vallely, 2006). However, beyond a desire to see the country develop, there was also a desire to enhance his personal reputation and present himself as a ‘big man’ on the African scene and

an heir to Mandela (Shaxson, 2009). One of the ways he sought to secure his reputation and create an enabling environment for development was to ensure that during his presidency, he achieved debt relief for Nigeria which was struggling under the heavy burden of debt to the *Paris Club*. Debt relief, however, came with some conditions. The joint evaluative report of the Paris Club debt deal with Nigeria commissioned by the Belgian and Dutch governments highlights these:

When President Obasanjo was elected President in 1999, Nigeria began to push for a more favourable debt relief deal with the Paris Club. President Obasanjo argued that a debt reduction was needed in order to implement economic reforms...both Gordon Brown (UK Treasury Secretary) and Larry Summers (US Treasury Secretary) were telling Nigeria that it had to carry out reforms first, and that the Paris Club would then consider a more favourable treatment of Nigeria's debt....(Dijkstra et al., 2011, p. 75)

Debt relief was thus conditional on some 'serious' economic reform (Callaghy, 2009). It was in this context that he put together an economic reform team headed by Ngozi Okonjo-Iweala, a former World Bank Vice-President as Minister of Finance, and several others. A wide range of anti-corruption and other reforms were implemented. In the extractive industries this included the introduction of the EITI. Commenting on the reforms and their impact on achieving debt relief, the then Minister of Finance, Okonjo-Iweala notes:

The oil-price-based fiscal rule and the adoption of the EITI both underscored Nigeria's determination to make a clean break with the past by fighting corruption and improving governance.... The credibility boost facilitated Nigeria's debt cancellation by the Paris

Club and lifted its profile in the eyes of investors. (Okonjo-Iweala, 2008, p. 43)

Thus, local actors (Obasanjo and his team) use transparency and the EITI as reputation intermediaries (David-Barrett & Okamura, 2016; De Fine Licht et al., 2014; Schnell, 2018) to signal good intentions and gain rewards which facilitate their personal goals and enhance their political leverage within the system.

But there was also the other side to Obasanjo. The darker, corrupt side. He understood his place in the kinship and patron-client systems and the fact that his rise to power and continued stay as ‘*chief oga*’ was dependent on the other ‘*oga*’s’ who had secured his place. Highlighting this, Campbell² notes:

....Obasanjo himself is both a product and a perpetrator of the politics of patronage, and Yar’Adua³ and Jonathan⁴ are prime beneficiaries – it gave all three of them in turn the presidency. (Campbell, 2013, p. 33)

Obasanjo understood the system he was embedded in as well as the international community so well. He knew how to play the game. Thus, he was selective of the reform measures which would enhance his reputation internationally while at the same time not antagonizing the network in which he was embedded. Muller (2011, p. 81) commenting on the NEITI reform notes:

NEITI was less threatening to interests of the ruling party PDP and the NNPC than another reform of the oil sector that was more encompassing...

Indeed, as the adoption of the EITI did not directly threaten the oil and gas industry and the ‘*oga*’s’ who had vested interest in it the way other reforms did, it was easier to implemented

than other potential alternatives such as a comprehensive reform of the extractive industries regulative framework.

However, it is important to note that of the range of transparency and anti-corruption reforms adopted by the Obasanjo administration, only those to which Obasanjo lent his support were successfully implemented. This was very evident with NEITI as legislation giving legal backing to NEITI (the NEITI Act) was not signed into law until the day before he relinquished power. This limited the ability of the NEITI to operate without his support and outside his control, during his tenure. Indeed, Obasanjo highlights the importance of his personal support to the implementation of NEITI in his autobiography where he notes that he wrote the Group Managing Director of the NNPC to ensure effective implementation of the NEITI process. An extract of the letter is reproduced below:

“I wish to emphasize that the NEITI is a priority transparency programme of this Administration for which the visible collaboration and cooperation of all participants in the Extractive Industry must be demonstrated” (Obasanjo, 2014, p. 334)

This is not a trivial point as the extent to which transparency as a norm took hold in the extractive industry was then dependent on the support which Obasanjo gave to the NEITI. He did give this support initially. However, once his aim of debt relief was achieved in 2006, he began to dismantle the economic reform team and the reforms started to falter. This included the NEITI.

Thus, the adoption of the transparency norm and EITI in the Nigerian extractive industry was conditioned by the Nigerian ‘penkelemes’ as the EITI was chosen ahead of other alternative reforms because it was less threatening to the ‘oga’s’. Its implementation was also subject to the support which the ‘chief oga’ lent it.

Power Plays – The Struggle for Control

Having considered the motivation of the principle actor and how transparency and the EITI were brought into the Nigerian extractive industry, we turned our attention to the power relations around adoption and implementation of the EITI and transparency in the extractive industry. In form, the adoption of the EITI in Nigeria followed the recommendations of the EITI framework. The EITI framework requires the establishment of an implementing organisation in the adopting country which is responsible for obtaining information about revenues and payments from the government and companies operating in the extractive industry. This local arm of the EITI is then to reconcile and audit this information and produce a report which it makes public. In Nigeria, this local establishment is the NEITI.

It became apparent very early on in our analysis that the power relations were complex and that they coalesced around the control of the NEITI establishment. ‘*Penkelemes*’ and its conception as a site of struggle over the control of information provided us with analytic insight on this. Viewed through the lens of ‘*Penkelemes*’, the struggle for the control of the NEITI establishment was really a struggle for the control of the NEITI audit reports and information released to the public through the NEITI. Thus, whoever controlled the NEITI establishment could dictate the nature and quality of information released to the public. In the Nigerian ‘*penkelemes*’, this was extremely important as the ‘*oga*’s would not want to feed the public with negative images of themselves nor would they want to direct the discontent at corruption in the system against themselves or their kinship and patron – client network.

The struggle for control started at inception with Obasanjo seeking to control the governance and operations of NEITI. This was done in a number of ways. First, NEITI was not given any legal form during Obasanjo’s administration. Without legislation giving it legal status, NEITI

was dependent on Obasanjo's support for its operations. This gave him the scope to shape and control the form the organisation took. This is evidenced in accounts of NEITI's early days thus:

On 16th February, 2004, the Federal Government inaugurated a 28-member Multi-Stakeholder Group (MSG) to implement the EITI in Nigeria. The MSG was called the National Stakeholders Working Group (NSWG); its Chairperson/Coordinator was Mrs Obiageli Ezekwesili, who was at that time a Senior Special Assistant to the President on Budget Monitoring and Price Intelligence BMPIU located with its office inside the Presidential Villa, Aso Rock. (NEITI, 2016a)

"...the Nigerian Government handpicked individuals for the NSWG who represented different sectors. For example, President Obasanjo appointed representatives of Nigerian civil society and the Nigerian Union of Journalists without consulting them." (Garuba & Ikubade, 2010, p. 150)

The NEITI secretariat was set up within the Office of the President and so functioned as an agency of the Presidency. The President also had full control of how the NEITI executive and NSWG were composed and who was appointed to these. Second, as the NEITI establishment grew and a NEITI secretariat set up, staff were redeployed from other ministries and governmental agencies. Muller (2011, p. 80) commenting on NEITI staff deployment notes:

"mostly, the deployment is actually based on politics, nepotism, favouritism..."

Thus, from the very inception of NEITI, it was embedded in the kinship and patron-client relationships which characterise the Nigerian ‘penkelemes’.

With the passing of the NEITI Act in 2007, the expectation was that NEITI would gain some autonomy from the government. However, this was not to be as two key flaws in the NEITI Act have been exploited by subsequent governments to maintain control over the NEITI establishment. First, the Act specifies the composition of the NSWG and gives the President the power to appoint and remove the members of the NSWG. Although the Act directs the President to the constituencies from which members are to be chosen (civil society, labour unions etc) it gives no guidance on ‘*how*’ they are to be chosen. This gives the President wide discretion as to who to choose. Nigerian Presidents⁵ have used these provisions to ensure that the choice of members on the NSWG has been without consultation with the relevant constituencies and based on the corrupted kinship and patron – client networks (Garuba & Ikubade, 2010; Olayinka, 2016). Second, the NEITI Act (Section 13) provides that NEITI be funded by a combination of allocations from the Nigerian government and gifts/grants from other institutions. This reliance on the Nigerian government for a significant part of its budget has constrained NEITI’s activities and arguably enabled the government to limit the activities of NEITI and thus the effect it could have on transparency and corruption in the Nigerian extractive industry. Indeed, NEITI notes this in its annual report:

“Funding has been one of the major challenges to NEITI in the achievement of its objectives. The NEITI budgetary allocation from the Federal government is not sufficient to take care of the planned activities of the work plan...”(NEITI, 2016b, pp. 44–45)

The main counterforce to the government's control over NEITI has been the CSOs which have been vocal in resisting the politicization of appointments into the NETIT administration. Below is an extract of a media report highlighting this resistance:

“A coalition of over 100 member organisations ... has warned that the provisions of the process of appointing an executive secretary as stipulated in the Act establishing the Nigerian Extractive Industries Transparency Initiative, NEITI, was not duly followed in the appointment of the new NEITI executive secretary We, therefore, call on President Muhammadu Buhari to, in the spirit of his commitment to transparency and accountability, remedy what we believe is an innocuous error....”(Onwuemenyi, 2016)

It is instructive to note the conciliatory tone struck by the CSOs in their resistance. The rationale for this approach is outlined by the NSWG thus:

“.... This might sound like a paradox because on the one hand EITI requires autonomy from the executive arm of government as much as possible, whilst on the other hand NEITI would need to rely on strong political will from the government to tackle the anomalies in the extractive industries....”(NEITI, 2016b, p. 45)

Thus, there is a recognition that NEITI's effectiveness is dependent on the political will of the President and his government and that this dependence needs to be balanced with the desire for autonomy.

Through the EITI localization in Nigeria, the transparency process in the Nigerian extractive industry is 'captured' (Dávid-Barrett & Fazekas, 2019) by the 'ogas' and transparency takes on a new meaning. It has come to mean the disclosure of information at the will of the 'chief

oga'. And so the EITI, rather than cleaning up the Nigerian '*penkelemes*' starts to adapt to and become part of the '*penkelemes*'. Indeed, corruption begins to take hold and shape the nature and content of transparency. While there is some resistance to this, it is only muted resistance which acknowledges the need to conform, in part, to the nature of the '*penkelemes*'

Implementation – Transparency and EITI in a '*penkelemes*'

On the face of it, for the first few years, EITI and transparency in Nigeria were a success. Nigeria became the EITI flagship project (Shaxson, 2009). It took hold of the EITI requirements to produce a financial audit and expanded on them by conducting a process audit and a physical audit in addition to the required financial audit (Goldwyn, 2006). Nigeria was also the first country to include disaggregated data in implementing EITI in order to make more transparent the operations of individual firms, production fields and categories of payment.

However, beneath the NEITI and transparency's success story lay a darker side. The quality of the information being published was questionable and the source of this anomaly came from the EITI Standard which requires EITI reports to be based on information provided from existing reporting systems and practices of government and extractive industry companies (EITI, 2016). Although this idea of building on existing '*reporting systems and practices*' is cost effective, it does not take into account the Nigerian '*penkelemes*' in which these systems and practices are embedded. With the reporting systems and practices deeply rooted in several decades of corruption and a corrupted kinship and patron-client network, data collected and the reports produced from this data is at best unreliable. The forensic audit of the national oil company (NNPC) by PricewaterhouseCoopers (PwC) highlights the

weakness of the accounting and reporting system which produce the information NEITI relies on thus:

...the accounting and reconciliation system for crude oil revenue used by Government agencies appear to be inaccurate and weak.....
(PricewaterhouseCoopers, 2015)

The NEITI Executive Secretary also highlights this issue thus:

“In the absence of complete records being kept by the Office of the Accountant General of the Federation, the reconcilers rely on the records of The Central Bank of Nigeria’s (CBN) whose records are not strictly maintained for the purpose of the EITI reconciliation”(Ahmed, 2012, p. 23)

There is evidence that this weak accounting and reporting system supports a complex system of oil theft⁶ which involve actors in and close to the government (Katsouris & Sayne, 2013). Thus, the ‘ogas’ have a vested interest in ensuring that the information which is disclosed to the public presents a picture of a system that works while hiding the corruption in the system. NEITI serves the purpose of enabling them to ‘launder’ the information by putting it through the audit process, thus giving some credibility to the data and the systems which produced it. In addition, when the NEITI reports do show discrepancies between government receipts and oil company payments, these are downplayed by the government and the NEITI audit recommendations are not acted upon.

While CSOs have had little impact on the content of NEITI reports, then have had more success in providing visibility for the NEITI reports and their content by taking these into the public domain in a manner that encourages the public and other stakeholders to actively engage with the government and other actors on these issues (Ochayi, 2013). For instance, the Civil Society

Legislative Advocacy Centre (CISLAC) has been active in taking these to the National Assembly and media (Abutudu & Garuba, 2011). Indeed, more recently, a coalition of CSOs had launched an app which allows users track the status of government and extractive industry companies responses to issues raised in NEITI audit reports (Okafor, 2019).

The conception of the Nigerian *'penkelemes'* as a site of struggle over information offers us a useful lens through which to view these issues with NEITI implementation. On the one hand the *'ogas'* use the NEITI audit reports to create a smokescreen to draw a veil over the corrupt system on which their survival depends while at the same time trying to reduce the visibility and impact of these reports. Thus, in localizing the EITI and transparency, they have attempted to decouple accuracy and reliability of information from the concept of transparency by publishing information which is *'inaccurate and weak'*. They have also attempted to break the linkage between transparency and accountability/corruption control by reducing the visibility of the audit reports and thus the opportunity and ability of the public and other stakeholders to hold them to account. On the other hand, CSOs struggle to create visibility for the audit reports and use these to drive stakeholder action. Thus, the introduction of the EITI into the Nigerian *'penkelemes'* creates a paradoxical situation where the on the one hand it not only become part of the Nigerian *'penkelemes'* but also enable the Nigerian *'penkelemes'* to deepen and perpetuate itself and on the other hand it is a tool for enhanced accountability and anti-corruption within the *'penkelemes'*.

Conclusion

We set out to investigate how the global transparency norm is localized in resource rich African countries. To understand how it is contested and reshaped as it is confronted with local norms, institutions and traditions. We did this in the context of localizing the transparency norm and

its attendant institution, the EITI, in the Nigerian extractive industry. Our findings build on and extend the work of David-Barrett and Okamura (2016) who demonstrated that the EITI acts as a reputation intermediary which allows countries in need of a good reputation with the international community to signal good intentions and international actors to reward achievements by developing a more nuanced understanding of the localization process and how the transparency norm is reshaped as it is localized. Three main insights are developed.

First, we show that it is the agency of local actors that determines which norms they choose to localize. We do this by presenting a well nuanced view of the complex motivations of local agents in reaching out to adopt a foreign norm. We show that the local agents are politically savvy in their relations with foreign norm givers while at the same time holding motivations which are fraught with contradictions and contestations. Thus, the choice of norm is made in such a way as to gain maximum advantage from the foreign norm givers while at the same time ensuring that the norms chosen do not jeopardize the local actor's position within the corrupt local political system.

We also highlight the role power plays in the transparency process. We show that while transparency is concerned with information disclosure, it is the struggle for control over the transparency process which determines the nature and quality of the information which is disclosed. Thus, when power over the transparency process is held by individuals who are a product of, and participate in, the prevailing corrupt system, then information disclosed through the transparency process will be of limited value in holding actors to account and the visibility of this information to the public and other stakeholders will be limited. However, resistance from other stakeholders has the potential to increase visibilities and use of the information disclosed. Thus, it is the balance between power and resistance to it which defines what transparency comes to mean in any system.

The third insight is in relation to the relationship between corruption and transparency. While the assumption behind the EITI is one of transparency leading to better accountability and reduced corruption, we show that this relationship is much more complex than this. We show a paradoxical relationship where on the one hand corruption fights back against attempts to curb it by conditioning how transparency is adopted and implemented and on the other hand, the product of this corrupted transparency is taken hold of by CSOs and used to drive accountability. Ultimately, transparency is paradoxically part of the problem as well as part of the solution.

We hope that our study further opens up space within the governance arena to more actively develop our understanding of transparency and the EITI and how they interact with corruption and other aspects of national contexts. This should lead to a more developed understanding of how transparency is understood, how it is localized in different contexts and under what conditions it would lead to reduced corruption.

¹ Oga is a Yoruba word which means ‘master’

² John Campbell was the United States Ambassador to Nigeria during the second half of Obasanjo’s tenure as president.

³ Umaru Musa Yar’Adua succeeded Obasanjo as President of Nigeria. He was president from 2007 to 2010.

⁴ Goodluck Johnathan succeeded Yar’Adua as President of Nigeria. He was president from 2010 to 2015

⁵ Presidents Yar’Adua, Johnathan and Buhari

⁶ US Embassy Cables Leak, Wikileaks Cable 09LAGOS438_a

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Appendix 1

Data Sources

Document Type	Description	Number
NEITI Oil and Gas Audit Reports	Financial, Physical and Process Audit Reports 1999 – 2018	11
NEITI Activity Report	Activity Reports to EITI 2012 - 2018	7
NEITI Strategic Plan	Strategic planning document	2
NEITI Communication Strategy	Communication strategy document	1
NSWG Membership	NSWG Membership list: 2008 – 2018	3
NEITI Act	Legislative enactment	1
NEITI Open Audit Magazine	NEITI magazine targeted at the public: June 2011 – Feb 2017	14
NEITI Newsletter	Newsletter to staff: January 2016 – May 2017	10
NEITI Workplan	Annual workplans approved by NSWG: 2009 - 2018	12
NEITI Quarterly Review	Quarterly summary report	7
NEITI Evaluation Report	Evaluation of pilot assessment of Beneficial Ownership disclosure	1
Civil Society in NEITI Process	Report on NEITI engagement with civil society	1
CSO publications	Reports, blogs and other publications on NEITI and its operations by CSOs	20
10 Years of NEITI report	NEITI Report	2
NEITI HR Documents	Staff directory, organisational structure and HR manual.	3
NEITI Press Releases	Press releases on NEITI website	225
KPMG and PwC reports	Reports of forensic audits of NNPC carried out by KPMG and PwC	2
Videos on NEITI website	Videos of interviews and presentations made by the EITI Executive Secretary	8
Other Videos	Videos aired on Nigerian Television. These include interviews with the NEITI Executive Secretary and other NEITI officials, interviews with government officials which discuss NEITI, reports on NEITI and its work.	45
Wikileaks	US Embassy in Nigeria cable communication leaked by Wikileaks which discuss NEITI and/or the oil and gas sector in Nigeria.	465
Nigerian and Global news reports	News reports about NEITI in the Nigerian and global press obtained from the Nexis database. Initial	2,425

	search yielded 4,578 results of which 2,425 were deemed relevant.	
EITI Standard	EITI Standards and revisions thereof.	2
EITI Guidance Notes	Guidance notes on the EITI Standard and other related issues published by EITI	25
Legislative Hearings	Nigeria's Struggle with Corruption. Hearing before the United States House of Representatives Subcommittee on Africa, Global Human Rights and International Operations.	1