

# CCDP Issue Brief

## Addressing Governance in ‘Fragile States’: A Role for Extractive Industries?

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How can extractive industries operating in resource-rich, developing countries most effectively contribute to ensuring that oil and mineral extraction achieves sustainable development outcomes? Beyond a baseline responsibility to ‘do no harm’, to what extent should companies be involved in strengthening public institutions and governance in fragile states? This CCDP Issue Brief focuses on these contentious issues, drawing on a few recent examples. It suggests that although many questions and challenges remain and deserve further scrutiny, the time has come for more coordinated and proactive corporate engagement in addressing deficiencies in public governance.

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## 1) Introduction

The so-called ‘resource curse’, which has plagued a number of natural resource-rich developing countries, continues to be a subject of intense global debate. Attention has focused increasingly on the elements necessary to avoid or mitigate negative societal impacts associated with resource extraction. One dimension addresses concerns over the role the private sector plays in fragile states, in particular large companies whose investments exert significant influence on domestic political dynamics. What can reasonably be expected of companies operating in countries with weak governance? While there is a vast literature on corporate lobbying and regulatory capture, less academic attention has been given to questions relating to potential business involvement in enhancing the effectiveness of public institutions. Does the competitive environment in which extractive firms operate hinder any forms of engagement in fostering good governance beyond adherence to legal requirements? In other words, should the responsibility of extractive industries merely be summed up as ‘do-no-harm’ regardless of where they are active, or should something more be required of such companies when operating in fragile states?

Much of the discussion to date around extractive industries and corporate social responsibility has assumed that companies operate in well-functioning political and legal environments. Clearly, many resource-rich countries do not conform to the ideal-type Weberian state but present many features of hybrid political orders. In such orders, the state is not necessarily the sole provider of security, welfare and representation: it often shares authority, legitimacy, and capacity with a variety of networks, strongmen, or traditional informal institutions. The term ‘hybrid’ captures different non-state forms of order and governance, including customary arrangements, which permeate each other. What legitimate steps might or should companies take to contribute to improving institutional capacities in these contexts, including greater transparency and accountability in public governance?

This CCDP Issue Brief explores these contentious questions. It expands upon the findings of previous research conducted on “The Impact of Resource-Dependence and Governance on Sustainable Development” (see CCDP Working Paper 8).<sup>1</sup> An econometric investigation of

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<sup>1</sup> Carbonnier, G., N. Wagner and F. Brugger, “Oil, Gas & Minerals: The Impact of Resource-Dependence and Governance on Sustainable Development”, Centre on Conflict, Development and Peacebuilding Working Paper 8, 2011. Available at:

[http://graduateinstitute.ch/webdav/site/ccdp/shared/6305/Working\\_Paper\\_8\\_Web%20version%202.pdf](http://graduateinstitute.ch/webdav/site/ccdp/shared/6305/Working_Paper_8_Web%20version%202.pdf)

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108 developing countries over 24 years confirmed that specific governance and institutional variables matter a great deal in achieving sustainable development outcomes through oil and mineral extraction, as highlighted in the conclusion:

“The presence of effective checks and balances seem to be critical to help reverse the negative development outcome of extraction. The presence of effective legislative chambers together with an independent judiciary appears to be the most significant institutional variables.”

The results further hinted at the fact that a higher level of acceptance of state institutions by the citizenry plays a positive role on sustainable development outcomes. By highlighting the importance of state legitimacy and effective checks on the power of the executive, these findings call into question mainstream engagement policies and practices of extractive industries in weak governance zones. Companies tend to prioritize community-development programs under philanthropic, corporate responsibility engagement. Smartly designed programs of this kind may enhance basic service delivery to host communities, with positive developmental outcomes in terms of health and education at the local level. Yet by providing ‘public’ services, extractive industries may unintentionally undermine the implementation of core state obligations, thereby weakening the legitimacy of public institutions vis-à-vis host communities instead of contributing to improved governance and strengthened institutional checks-and-balance mechanisms.

Official and non-governmental development agencies have increasingly turned to governance issues over the past two decades, recognizing the centrality of effective institutions in spurring development. Yet many policy makers and the overwhelming majority of corporate actors still regard governance issues as too politically sensitive for industry involvement, or simply outside the corporate remit.

The question is not whether multinational companies should get involved or not. By all accounts, businesses interact in many ways with public institutions and governance issues. The outcome can be deleterious when corporations seek to benefit commercially from weak institutions, for instance by discarding social and environmental regulations when sanctions can easily be averted or via information asymmetry abuses. Tax avoidance may also contribute to keep weak governance capacities in host states. Corporate influence exercised via political donations, public relations and technical assistance has an impact on governance.<sup>2</sup> The way companies interact with the public administration can strengthen or weaken generalized social capital and public trust in state institutions. The question thus is if, and how, corporate influence can improve public governance.

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<sup>2</sup> Frynas, J., “Corporate Social Responsibility and Societal Governance: Lessons from Transparency in the Oil and Gas Sector”, *Journal of Business Ethics*, Vol. 93, 2010, pp. 163–179.

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This CCDP Issue Brief explores the potential and limits for greater corporate engagement in strengthening checks-and-balance mechanisms in resource-rich developing countries. The next section considers debates over the resource curse and the evolving turn towards strengthening institutional checks and balances at the national level. Section three explores the extent to which private sector involvement in governance is being constrained or encouraged by host states, international organizations and corporate-led initiatives. Section four discusses private sector support for strengthening governance and institutions, be it with financial and technical assistance or advocacy. It further presents a few practical examples of corporate efforts to support institutional strengthening. The concluding section puts forward a number of options for governments, companies and other stakeholders seeking to foster joint engagement in this area.

## 2) Increasing the focus on institutional checks and balances

There are diverging views over the role of extractive and other industry sectors in addressing ‘resource curse’ dynamics, and contributing to translating the depletion of natural capital into productive investments in human and physical capital.<sup>3</sup> Among several factors, poor economic and development outcomes in a significant number of resource-rich nations has been linked to authoritarian regimes.<sup>4</sup> The basic argument is that governments allocate their extractive rent to maintain citizens’ consent through patronage politics and to strengthen the security apparatus for the purpose of suppressing political dissent. Some scholars contend that failures of democratic governance in resource-rich countries have been most pronounced in Sub-Saharan Africa.<sup>5</sup> This state of affairs has been explained by lack of transparency and inordinate executive discretion in revenue allocation, affecting electoral outcomes when voters care only about redistribution. Other studies have pointed to the negative impacts of international support given to incumbent leaders of oil-rich states by companies and foreign governments with strategic interests in these countries.<sup>6</sup>

More recently, scholars have questioned the resource curse argument and have highlighted that there is no deterministic pathway from oil and mineral extraction to development outcomes. For example, Haber and Menaldo look at regime types in countries prior to

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<sup>3</sup> See *ibid.*

<sup>4</sup> Ross, M.L., “Does Oil Hinder Democracy?”, *World Politics*, Vol. 53, No. 3, April 2001, pp. 325-361.

<sup>5</sup> Jensen, N. and L. Wantchekon, “Resource Wealth and Political Regimes in Africa”, *Comparative Political Studies*, Vol. 37, No. 7, September 2004, pp. 816–841.

<sup>6</sup> Omgba, L.D., “On the Duration of Political Power in Africa: The Role of Oil Rents”, *Comparative Political Studies*, Vol. 42, No. 3, March 2009, pp. 416–436.

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becoming resource dependent and evaluate whether increases in resource rents affected political development. The results suggest that oil and mineral dependence does not promote more authoritarian forms of government over the long run, but may in some instances help to sustain repressive regimes over time.<sup>7</sup>

There is a relatively broad consensus on the positive correlation between institutional quality and development outcomes of resource extraction. A critical literature survey recently concluded that, “the extent to which mineral and fuel abundance generate developmental outcomes depends largely on the nature of the state and politics as well as the structure of ownership in the export sector”.<sup>8</sup> Beyond the resource curse, development policy circles are paying greater attention to strengthening governance institutions, including the judiciary. This can be seen, for example, in a February 2012 Legal Note by the World Bank’s General Counsel and Senior Vice President on the involvement by the World Bank in the Criminal Justice Sector.<sup>9</sup> Given the Bank’s expanding efforts to improve justice sector performance, a range of actors are being looked to for support and capacity development in these areas.

### **3) Corporate engagement in community development**

Given the growing consensus on the links between institutional quality and positive development outcomes, there is a need to better identify the appropriate roles and responsibilities of the major actors involved. What is the desirable scope of private sector involvement in encouraging effective public governance? Should a distinction be made based on the sheer size of the company and its investments, which arguably affects the potential voice and influence a corporation may exert? Scholars have started to examine the potential for more proactive and legitimate corporate involvement in strengthening checks and balances at local and national levels as part of an effort to avert the resource curse and to foster more equitable economic and social development. Much revolves around interactions between states and corporations.<sup>10</sup>

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<sup>7</sup> Haber, S. and V. Menaldo, “Do Natural Resources Fuel Authoritarianism? A Reappraisal of the Resource Curse”, *American Political Science Review*, Vol. 105, Issue 1, February 2011, pp. 1-26.

<sup>8</sup> Di John, J., “Is There Really a Resource Curse? Theory Evidence and Policy”, *Global Governance*, Vol. 17, No. 2, 2011, pp. 167-184.

<sup>9</sup> Leroy, A.-M., World Bank Senior Vice-President and Group General Counsel, “Legal Note on Bank Involvement in the Criminal Justice Sector”, 9 February 2012, Available at: <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/CriminalJusticeLegalNote.pdf>

<sup>10</sup> Kolstad, I., “Human Rights and Positive Corporate Duties: The Importance of Corporate-State Interaction”, *Business Ethics*, Vol. 21, No. 3, April 2012, pp. 276-285.

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Private sector investment in community development (CD) is a central aspect of today's extractive industry landscape in many developing and post-conflict countries. The range of capacity building and public infrastructure needs in countries where the industry often invests is vast. For obvious reasons, companies tend to prioritize CD initiatives which may also help secure their social license to operate, such as financial support to provide essential services to host communities. Corporations have thus shown substantial involvement in supporting institutional development in specific areas such as public health.<sup>11</sup> This is due in part to pressures from developing country governments and their citizens, who increasingly expect that, as new extractive projects develop, so will associated benefits including more jobs, new educational and health-care facilities, and other public goods.

As former UN Special Representative on Business and Human Rights John Ruggie has pointed out,

“...in some cases States require investors to provide non-commercial services or infrastructure, such as schools, healthcare services, roads or other, that are not essential to either carrying out the project or mitigating project impacts.”<sup>12</sup>

Out of concern for national sovereignty, host states may seek to confine corporate engagement to CD projects outside the governance remit. The case of Indonesia is instructive in this regard. The government has released an official guideline for CD programs for contractors, i.e. upstream oil and gas industries.<sup>13</sup> The Regulation specifies that community development shall be performed “in the framework of empowering and enhancing the capacity of local community in the field of social, economy, culture, health, environment as well as social and general facility improvement within the operational area of (the) contractor.” The Regulation further stipulates that CD has to support the development efforts led by the government. It is also noteworthy that oil firms may recover their CD-related expenditures that are considered operating costs and enter into the calculation of ‘cost oil’ under production sharing contracts.

More importantly perhaps, the Regulation adds that “CD shall be disallowed to be ideological, political oriented nor SARA (Tribe, Religion, Race)-oriented.” The Indonesian

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<sup>11</sup> See for example, Nelson, J., “Business as a Partner in Strengthening Public Health Systems in Developing Countries”, CSR Initiative – Kennedy School of Government at Harvard University, the Conference Board and the International Business Leaders Forum. Available at:

[http://www.un.org/partnerships/Docs/report\\_13\\_HEALTH%20FINAL.pdf](http://www.un.org/partnerships/Docs/report_13_HEALTH%20FINAL.pdf)

<sup>12</sup> UN Doc. A/HRC/17/31/Add.3, Report of the Special Representative on Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations: guidance for negotiators.

<sup>13</sup> BPMIGAS, PTK 017 Revision I, Second Book of Procedural Guideline or Pedoman Tata Kerja (PTK) No. 017/PTK/III/2005, Section on Community Development.

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state-owned company, BPMIGAS, may request reports or inspect any CD program of a contractor. The CD plan must be coordinated with BPMIGAS and the local government or other local stakeholders before and during implementation, with prior approval for the services of any foreign consultant in CD programs.

Such regulations on foreign oil company involvement in CD programs are generally not publicly available, and it has not been possible to access similar documents for other producer states. The Indonesian example shows, however, that host states may set a relatively clear framework for corporate engagement outside extractive activities that specifically exclude 'politically-oriented' activities. At the same time, other producer countries impose no CD requirements nor provide any fiscal incentive, encouraging oil and mining firms to invest in community development (e.g. Malaysia).

In addition to community development, local content requirements regarding human resources and the purchase of domestic goods and services have become both more frequent and tighter in recent years. They may have significant development impacts, notwithstanding the fact that extractive industries are capital rather than labor intensive. In the case of minerals-for-infrastructure swaps promoted in particular by China in Africa, host states obtain wider public use of specific services or infrastructure projects, such as roads, energy, or rail lines by a company in exchange for oil and mineral extraction.<sup>14</sup> While such policies may contribute to short-term development objectives, local communities may view industries as substitutes for the state, thus potentially undermining efforts to strengthen the legitimacy and accountability of government institutions over the longer term. Similar challenges obviously face non-governmental organizations and international aid agencies that deliver public services in places where state authorities either lack the capacity or the will to do so.

## **4) Debating corporate involvement in strengthening governance**

A vibrant private sector, together with effective and accountable public institutions, are widely viewed today in policy circles as being key enablers of economic and social development.<sup>15</sup> However, the notion that corporations should be involved in supporting

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<sup>14</sup> See, for example, Global Witness, "China and Congo: Friends in Need", Global Witness, March 2011. Available at: [http://www.globalwitness.org/sites/default/files/library/friends\\_in\\_need\\_en\\_lr.pdf](http://www.globalwitness.org/sites/default/files/library/friends_in_need_en_lr.pdf)

<sup>15</sup> See, for example, para. 138 of the plan of implementation of the 2002 UN World Summit on Sustainable Development, which affirms: "Good governance is essential for sustainable development. Sound economic

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efforts in developing countries to build the capacity of ‘well-ordered background institutions’,<sup>16</sup> i.e. those legal and political institutions that guarantee basic rights for citizens and provide the means to structure and regulate economic activity, remains controversial.

The reluctance to consider a role for the private sector in strengthening public institutions is often linked to concerns about the influence of foreign companies on political leaders and charges of regulatory capture and corruption. The literature on regulatory capture addresses legal and illegal activities, which corporations undertake to influence legislation (e.g. lobbying, bribery, favor exchanges between regulators and firms).<sup>17</sup> This being said, corporations are not equipped with the same competencies as the public sector. Equally important, they are not directly accountable to the public in the way governments ideally are or should be.<sup>18</sup>

At the same time, large multinational companies face increasing public expectations to conduct their activities in a responsible manner, consistent with international standards, and to participate in efforts to foster sustainable development and more accountable governance in countries where they operate. Leading business voices have begun to signal the importance of supporting more effective public institutions. As the Global Corporate Citizenship Initiative, sponsored by the World Economic Forum (WEF), put it in 2008:

“Today, having come to understand the important but often complex link between social and environmental issues and business success, the challenge for companies operating internationally is increasingly how to move beyond managing stakeholder demands and reputational risks related to these issues (the traditional province of corporate responsibility) to working with governments and other stakeholders to address the deficiencies in public governance that often fuel such demands and risks as well as stunt business activity and economic growth”.<sup>19</sup>

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policies, solid democratic institutions responsive to the needs of the people and improved infrastructure are the basis for sustained economic growth, poverty eradication, and employment creation.” Available at: [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf)

<sup>16</sup> Hsieh, N.H., “Does Global Business Have a Responsibility to Promote Just Institutions?”, *Business Ethics Quarterly*, Vol. 19, No. 2, April 2009, p. 268.

<sup>17</sup> See, for example, Agrell Per, J. and A. Gautier, “Rethinking Regulatory Capture”, in Harrington, J., editor, *Recent Advances in the Analysis of Competition Policy and Regulation*, Edward Elgar, 2012. Available at: [http://orbi.ulg.ac.be/bitstream/2268/109422/1/Regulatory\\_capture.pdf](http://orbi.ulg.ac.be/bitstream/2268/109422/1/Regulatory_capture.pdf)

<sup>18</sup> Scherer, A. G., G. Palazzo, and D. Baumann, “Global Rules and Private Actors. Toward a New Role for the Transnational Corporation in Global Governance”, *Business Ethics Quarterly*, Vol. 16, 2006, pp. 505-32.

<sup>19</sup> World Economic Forum, “Partnering to Strengthen Public Governance: The Leadership Challenge for CEOs and Boards”, World Economic Forum Global Corporate Citizenship Initiative in partnership with Business for Social Responsibility, Accountability, Harvard University and International Business Leaders Forum, January 2008. Available at:

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Speaking to corporate executives at a 2012 WEF meeting in Bangkok, the Nobel Peace Prize Laureate Aung San Suu Kyi, now a member of parliament in Myanmar, stressed the vital importance of effective public institutions:

“I understand investors invest because they hope to profit from ventures – I agree with that – but our country must benefit as much as those who invest... Would-be investors in Burma please be warned: even the best investment law will be of no use whatsoever if there are no courts clean or independent enough to be able to administer those laws justly”.<sup>20</sup>

A 2006 OECD report on multinational companies working in weak governance zones highlights opposing views on corporate involvement in public governance capacity building efforts:

“OECD consultations on possible roles for companies in promoting institutional reform in weak governance countries revealed mixed views. Some consultation participants welcomed such involvement, noting that multinational enterprises are relatively powerful actors in weak governance host societies and that they might be better placed to advocate reform than most of the citizens of these countries. Some participants underscored the risks for companies of being seen as associated with or even complicit with a weak governance regime – it may be prudent for companies in weak governance zones to be seen as making credible efforts to promote better policies and practices in both the public and the private sectors. Others were strongly opposed to political advocacy by companies, fearing that it would inevitably deteriorate into inappropriate involvement in local politics”.<sup>21</sup>

The terminology above is not values-free. ‘Political advocacy’ implies abandoning any pretense to neutrality, something hardly any company executive would formally venture into. To the contrary, ‘making credible efforts to promote better policies and practices’ may simply entail supporting technical assistance projects geared at local capacity building, something often included in CD projects carried out by companies. The OECD concludes by encouraging multinational enterprises to work in partnership with host country businesses and professional associations, trade unions, civil society organizations and multistakeholder initiatives to address public governance shortcomings.<sup>22</sup>

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[http://www.bsr.org/reports/BSR\\_Davos08\\_Leadership-Challenge.pdf](http://www.bsr.org/reports/BSR_Davos08_Leadership-Challenge.pdf)

<sup>20</sup> “Suu Kyi asks investors for help on Myanmar jobs time bomb”, Reuters news article, 1 June 2012. Available at: <http://www.reuters.com/article/2012/06/01/myanmar-suukyi-idUSL4E8H10GG20120601>

<sup>21</sup> OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones. Available at: <http://www.oecd.org/dataoecd/26/21/36885821.pdf>

<sup>22</sup> *Ibid.*, p. 31.

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In 2011, the UN Human Rights Council unanimously endorsed Guiding Principles<sup>23</sup> for the implementation of the “Protect, Respect and Remedy” policy framework on business and human rights developed by the Special Representative of the UN Secretary-General, John Ruggie. This framework not only affirms that states have obligations to protect against corporate related abuses, but also that all business enterprises have a responsibility to respect internationally recognized human rights standards, meaning they should avoid infringing on the rights of others and address adverse human rights impacts with which they are involved. The Guiding Principles do not suggest that companies have a responsibility to contribute to strengthening public institutions to help protect human rights at the national level. Instead, they focus on the corporate due diligence steps necessary to demonstrate respect of human rights in practice. They also make clear that the responsibility of corporations to respect human rights includes preventing or mitigating adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.<sup>24</sup> In sum, the Guiding Principles do not call on companies to address government failure.

In earlier reports, John Ruggie did however address questions relating to the potential need for more expansive corporate responsibilities:

“Operating conditions may impose additional requirements on companies, for example, the need to protect employees in conflict affected areas, or from violence in the workplace. But this is more appropriately considered a specific operationalization of the responsibility to respect, and not a separate responsibility altogether. More than respect may be required when companies perform certain public functions. For example, the rights of prisoners do not diminish when prisons become privatized. Here, additional corporate responsibilities may arise as a result of the specific functions the company is performing. But it remains unclear what the full range of those responsibilities might be and how they relate to the State's ongoing obligation to ensure that the rights in question are not diminished”.<sup>25</sup>

Multistakeholder initiatives like the Extractive Industries Transparency Initiative (EITI)<sup>26</sup> provide another avenue for corporations to influence government performance on issues relating to accountability and respect for rule of law. Similarly, the Voluntary Principles on

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<sup>23</sup> UN doc. A/HRC/17/31.

<sup>24</sup> UN doc. A/HRC/17/31, Guiding Principle 13 (b).

<sup>25</sup> A/HRC/11/13, 22 April 2009.

<sup>26</sup> Extractive Industries Transparency Initiative. Available at: <http://eiti.org/supporters/companies>

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Security and Human Rights<sup>27</sup> provide a mechanism through which companies can better ensure that engagement with public and private security forces in the countries where they operate is consistent with the international legal obligations of states. Other public-private multistakeholder initiatives focus on specific industries such as private security providers<sup>28</sup>, or on thematic issues such as responsible minerals trade.<sup>29</sup>

These voluntary, multistakeholder governance experiments, while still at early stages and with limited results at field level to date, all foster greater corporate engagement in favor of more transparent and accountable state institutions. They mobilize a variety of pathways to effect change in the behavior of key stakeholders, not least among private companies.<sup>30</sup> While there have been advances in promoting norms and standards at a discursive level as well as in plenary meetings, there is little evidence that multistakeholder initiatives have had major impacts in resource-rich developing countries. Intense competition between multinational extractive companies from industrialized and emerging economies has thus far limited the scope and potential for greater corporate engagement, both individually and collectively.

Moving from voluntary initiatives to binding requirements is an obvious avenue to establish a level-playing field and get free riders on board. As in other instances, the unitary actor assumption does not hold for the corporate sector. Business actors have expressed diverging views on such moves, as exemplified by the recent controversy over the enforcement of a transparency clause under Section 1504 of the US Dodd-Frank Act, requiring companies registered with the Securities and Exchange Commission (SEC) to publicly report how much they pay governments for access to oil, gas and minerals.

The WEF-sponsored Global Citizenship Corporate Initiative indicates that some companies explicitly want to engage on strengthening institutions of governance. But in practice, do we see greater corporate involvement in supporting key public governance functions beyond CD projects and local employment generation? The information publicly available remains extremely scarce. This may reflect the paucity of such activities to date, or the topic's sensitivity and confidential character, contrary to well-publicized CD programs.

The corporate giant General Electric (GE) has recently stated that there are practical steps it and other companies can take to foster respect for the rule of law in countries where they

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<sup>27</sup> Voluntary Principles on Security and Human Rights. Available at: [www.voluntaryprinciples.org](http://www.voluntaryprinciples.org)

<sup>28</sup> International Code of Conduct for Private Security Providers. Available at: <http://www.icoc-psp.org/>

<sup>29</sup> Public-Private Alliance for Responsible Minerals Trade. Available at: <http://www.resolv.org/site-ppa/>

<sup>30</sup> Carbonnier, G., F. Brugger, and J. Krause, "Assessing Policy Responses to the Resource Curse: Can Civil Society Live up to the Expectations?", *Global Governance*, Vol. 17, No. 2, May 2011, pp. 247-264.

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operate. The company has created an initiative on “Strengthening Rule of Law in Asia”<sup>31</sup> in which it has developed partnerships with law schools in China and Vietnam involving GE attorneys as guest lecturers and company support for enhanced training, student/teacher exchanges and collaborative research. The GE Foundation has also provided financial support for projects aimed at strengthening commercial law, intellectual property protection, legal and judicial capacity building and citizens’ rights.

Another example is provided by the Norwegian oil company Statoil. Beginning in 1999, the company started providing financial support for a UNDP-led initiative in Venezuela involving Amnesty International to train local judges and public defenders in international human rights standards.<sup>32</sup> More recently, Statoil has provided financial support for UNDP’s Democratic Governance Thematic Trust Fund, specifically for programs involving justice and human rights, local governance and anti-corruption efforts.<sup>33</sup>

Closer examination of these and similar endeavors, including in terms of impact evaluation, would help to draw lessons on the multiple ways companies could legitimately contribute to fostering better governance in partnerships with other stakeholders in resource-rich developing countries. This would also contribute to clarifying the risks and limitations inherent to such corporate engagement, and how fierce competition shapes and restricts the scope for engagement.

## 5) Concluding remarks and recommendations

This CCDP Issue Brief has provided an overview of the debates and recent developments concerning the potential and limits for a legitimate role for the private sector in strengthening more accountable governance at local and national levels in resource-rich developing countries. The stakes are high: as we enter an era of relative resource scarcity, an increasing number of fragile states are becoming new oil and mining Eldorados where extractive industries account for a substantial share of government revenues.

Looking at Eastern Africa, for example, a 2012 report stresses that the sixty development projects in the oil sector in Uganda urgently require new forms of “co-operative governance

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<sup>31</sup> Available at: <http://citizenship.geblogs.com/strengthening-rule-of-law-in-asia/>

<sup>32</sup> See, for example,

<http://www.statoil.com/en/NewsAndMedia/News/1999/Pages/TrainingInHumanRights.aspx>

<sup>33</sup> Available at: <http://web.undp.org/governance/docs/DGTTFEvaluationReport.pdf> See also:

<http://www.statoil.com/AnnualReport2009/en/Sustainability/ManagingOurRisksAndImpacts/Pages/WorkingInCollaboration.aspx>

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structures to bridge the dangerous divide between communities on the one hand and the government and oil corporations on the other”.<sup>34</sup> Making faster progress on improving key governance capacities will require a range of strategies and a willingness on the part of all the key actors – including extractive firms – to experiment with new approaches.

The relationships between host states and extractive firms involve many interactions beyond the negotiation and oversight of contractual and security arrangements. Corporate engagement with host communities so far has focused primarily on social development programs. Yet community development alone does not offer sufficient traction to translate resource extraction into sustainable development outcomes in fragile states. Beyond the baseline corporate responsibility to ‘do no harm’, this CCDP Issue Brief concludes that it is time to explore further the positive roles and responsibilities that companies could embrace in addressing deficiencies in public governance, with due regard to the specific principal-agent relationships and incentives facing publicly-listed multinationals, independent junior companies and state-owned enterprises.

Critics may argue that it is far-fetched to expect companies to address governance issues for the public good while asking them to abstain from doing so in the pursuit of their narrow, short-term self-interests. The few examples above, however, show that individual firms did not move alone when seeking to strengthen the capacity of public institutions, but tended to support well-established and representative local and international partners. One conclusion is that businesses can contribute to improving governance with, and in support of, other actors. They should not ‘do it alone’. Competitive pressures may act as a serious limiting factor but do not justify inaction. As the Global Corporate Citizenship Initiative suggests, it is in the interest of responsible companies to open up to deeper engagement in policy dialogue and governance reforms with international and local organizations. This is not only for the sake of more positive development outcomes in producer states, but also to secure the corporate license to operate and the supply of extractive resources over the long run.

International organizations and development actors could also benefit from greater engagement with businesses on governance issues. Industry managers may have a comparative advantage in analyzing and understanding hybrid political orders in resource-rich weak states: whatever the specific circumstances on the ground, running extractive operations with a profit require a pragmatic approach, i.e. dealing with the situation as it is

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<sup>34</sup> De Kock, P. and K. Sturman, “The Power of Oil: Charting Uganda’s Transition to a Petro-State”, South African Institute of International Affairs, Research Report Number 10, Governance of Africa’s Resources Programme, March 2012. Available at:

[http://www.saiia.org.za/images/stories/pubs/reports/saia\\_rpt\\_10\\_dekock\\_sturman\\_20120307.pdf](http://www.saiia.org.za/images/stories/pubs/reports/saia_rpt_10_dekock_sturman_20120307.pdf)

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rather than as it ought to be. Diplomatic missions and not-for-profit organizations may be less hard pressed to come to grips with the daily intricacies of murky governance systems. Greater engagement means treading a fine line, but a line worth treading. Research on the modalities and impact of corporate engagement to date is scant, which makes it difficult to delineate the appropriate scope for engagement. More research in turn depends on greater access to information, which remains an obstacle for more informed debate. This CCDP Issue Brief will serve as a basis for data collection and analysis in forthcoming country case studies.

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**Scott Jerbi** is a PhD candidate in international relations/political science at the Graduate Institute. His research focuses on the roles of governments in creating, supporting and influencing the direction of multistakeholder initiatives, in particular those that address human rights relevant concerns.

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