

CHAPTER 2 – www.eisourcebook.org

2.4 Applying New Insights

The perspectives on extractive resource development offer insights that are relevant to the design of good practice solutions in the five areas identified as key in the EI Value Chain. They also offer a dilemma.

On the positive side, the emphasis on the risks of weak institutional quality and the value of political economy analysis is accompanied by a sense of great potential in natural resource-led development. Good institutions, good laws and regulatory systems could catalyse a broader-based development for the prospective and current resource-rich economies. This is in alignment with the aspirations of a growing number of countries and has been emphasized by leading civil society groups, international organizations and industry associations. The Africa Mining Vision, for example, sets out as one of its main goals the creation of a “knowledge-driven African mining sector that catalyses and contributes to the broad-based growth & development of, and if fully integrated into, a single African market”¹. However, more than ever before, the kind of reform that is implied is much more of a collaborative, coordinated and consensus-driven one among the government agencies and levels and the various players in resource development in a country. There are cross-border and international dimensions to this which further underline the collaborative scope and nature of any resource-led development in the current setting. In this process of change, knowledge will play a crucial role in understanding the issues and in persuading parties to agree to particular solutions.

The dilemma is this. A limitation on much of the research discussed in the preceding section follows from the macro-level at which it operates. Its relevance to education in this area is beyond doubt but the manner in which such insights can be translated into applications is less clear-cut and challenging. Even the most concrete form of political economy analysis will remain some way from the world in which a government takes decisions to promote a policy of exploring for and developing its oil, gas or mining resources. It will be faced with a number of very practical challenges. It will already have decided that the balance of opportunities and challenges is one that is favourable. Whether its own structure can be described as ‘patrimonial’ or ‘hegemonic’ will probably be of indifference to it. It will not be able to escape questions such as: what kind of rights should it offer the eager investors knocking at its doors? What balance of rights and obligations in a contractual relationship is appropriate to its unique circumstances?

¹ Action Plan for Implementing the AMV, December 2011 (African Union Commission/African Development Bank/UNECA).

The learning curve may also have to be steep. Governments will usually find it hard to resist the overtures of foreign investors seeking to conclude contracts for EI activities. Faced with a mountain of specific legal provisions and economic data that is typical of EI contracts and business models, their need for a capacity to interpret, analyse and negotiate becomes acute. Moreover, some grasp of longer-term challenges such as revenue volatility and resource exhaustion (and how to meet them) will also be required. All too often, a limited capacity on the government side results in a deal being concluded that offers visible short-term benefits, but low credibility in the long-term, reflecting inadequate negotiating skills and a poor understanding of how to evaluate a 'fair deal' in a specific setting.

For non-governmental bodies and individuals, the questions will also have urgency: how do we understand and interpret the contracts that our government is negotiating or has negotiated with foreign investors? Are they fair in relation to good international practice? Does the proposed new law contain all the provisions a good hydrocarbons or mining law should contain? Such questions concern long-standing and much used contractual instruments in the extractives industries. Without a thorough understanding of this established body of knowledge, policy decisions will be impoverished and accountability will be reduced, making negative outcomes probable. The need to provide assistance in this area has been recognized by a number of civil society groups and policy institutes in recent years; manuals of accessible analysis of oil and mining contracts are one of the early results².

The response of the *Source Book* is to treat in detail the principles, measures and techniques that might allow for a better management of oil, gas and mineral resources in the five key areas of the EI Value Chain. This knowledge, critically presented and analysed, can be described as 'good practice': the kind of welfare-promoting policies, institutions, and governance that international experience demonstrates are likely to deliver effective 'technical' solutions to the challenges discussed above. It avoids the notion of 'best practice' since the authors of the *Source Book* take the view that ultimately governments know what is best for them. Whenever possible, the tone is pragmatic or 'technocratic' rather than exhortative, presenting various options that have worked in different settings.

However, good practice has to reflect the latest research and policy interventions in the sector. In addition, good practice in oil, gas and mining development always has to 'fit' a particular and usually pre-determined context. This is a factor generally recognized as being of great importance. The foregoing approach to good practice has to be supplemented by an

² OpenOil, *Oil Contracts: How to Read and Understand Them* (2012); OpenOil/VCC/RWI, *Mining Contracts: How to read and understand them* (2013). With respect to negotiations of mining contracts, two contributions are notable: BGR/CCSI/David Kienzler (2015), *Natural Resource Contracts as a Tool for Managing the Mining Sector*, and International Mining for Development Centre/Fabien Nkot (2015), *Fifty Pieces of Advice to an Official who is engaged in the Negotiation of Mining Contracts*.

appreciation of the importance of a specific legal and cultural setting. Much has been written about the combination of circumstances that has contributed to the success of hydrocarbons development in Norway, and the difficulties of exporting a Norwegian ‘model’ to other resource-rich countries³. What we may call the political economy of a resource-producing state will play a major role in the way any good practice solutions are implemented; and will fundamentally condition the state’s capacity to exploit its natural resource endowment.⁴ Local variations and innovations, or peculiarities, in institutional arrangements will shape policy on resource development and in turn be shaped by them. They need to be taken into account before good practice solutions are likely to work. For this reason, the *Source Book* includes a number of specific country case studies and examples.

Crucially, as a number of organizations have already understood, the application of research needs to recognize the importance of new media in reaching out to a potentially vast new constituency that seeks knowledge of the EI sector. The *Source Book* in its primary electronic form seeks to contribute to this exercise of reaching out to those in need. As a tool it can contribute to a major collaborative process in which lessons can be learned from the past (and sometimes the present) so that history does not repeat itself.

CEPMLP

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³ For example, Thurber, M., Hults, D., Heller, P.R.P. (2010). The Limits of Institutional Design in Oil Sector Governance: Exporting the Norwegian Model. Stanford University Program on Energy and Sustainable Development. On the Norwegian Model generally, see Al-Kasim, F. (2006). *Managing Petroleum Resources: The ‘Norwegian Model’ in a Broad Perspective*. Oxford: Oxford Institute of Energy Studies.

⁴ See Socavol, B. (2010). *The Political Economy of Oil and Gas in Southeast Asia: Heading towards the Natural Resource Curse?* The Pacific Review, Vol. 23, No. 2, pp. 225-259.