

ESID Working Paper No. 66

***Scalar politics and transnational governance
innovations:
A political settlements lens on the Extractive
Industries Transparency Initiative in the Andes***

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September, 2016

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ISBN: 978-1-908749-67-3

Abstract

The Extractive Industries Transparency Initiative (EITI) originated in the international domain but can only operate if adopted at a national scale. How EITI unfolds in a particular country is thus a consequence of the particular interactions between domestic and transnational political processes, and among ideas, institutions and political interests existing at these different national and transnational scales. National politics is especially crucial to the forms taken by EITI. This paper addresses how national political settlements have led to diverse responses to EITI across three Andean countries: Peru (an early adopter); Colombia (a late adopter); and Bolivia (a non-adopter). We argue that national elites have taken up (or, in the case of Bolivia, rejected) EITI as part of a strategy to secure broader goals and to convey particular messages about the state of democracy and political priorities in their countries, including towards actors on the international stage. We conclude that the EITI, and the idea of transparency, are leveraged by national actors to meet domestic political goals and interests, even as these may also be intertwined with other international pressures and contexts. While EITI, and arguments over transparency, can affect the nature of the domestic political settlement, they do so primarily by helping deepen domestic political changes that are already underway and that were the same political changes that created the initial space for EITI.

Keywords: Extractive Industries Transparency Initiative (or EITI); transparency; political settlements; Latin America; Andes; transnational governance

Acknowledgements

This paper has been prepared with the support of a Social Sciences and Humanities Research Council-financed network project on 'Governing Extractives' coordinated by York University, Canada, and the UK Department for International Development-funded consortium on Effective States and Inclusive Development, coordinated by the University of Manchester. We are grateful to those who agreed to be interviewed for the paper, as well as to colleagues in the SSHRC-funded network who offered feedback on early ideas at a workshop in Toronto in April 2013. Special thanks go to David Szablowski, Sam Hickey and Julia Brunt. We are especially indebted to Carlos Monge, two anonymous reviewers and the editor of the ESID Working Paper series for their careful readings of the paper and comments.

Bebbington, A., Arond, E. and Dammert, J. L. (2016) *Scalar politics and transnational governance innovations: A political settlements lens on the Extractive Industries Transparency Initiative in the Andes*. ESID Working Paper No. 66. Manchester, UK: The University of Manchester. Available at www.effective-states.org

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A. EITI and political settlements in conversation

The Extractive Industries Transparency Initiative (EITI) is a voluntary, global standard for transparency in the extractive industry sector. Having begun life with a focus on the management of tax payments by extractive enterprises, the EITI standard has since broadened to include, by 2016, concessions, contracts and beneficial ownership. While in many regards, EITI is a transnational institutional innovation, ultimately it can only take form at the national scale. Similarly, the translation of the idea of “transparency” into a set of rules and practices ultimately occurs at the national level, even when there are transnationally defined standards. How EITI unfolds in a particular country is thus a consequence of the particular interactions between domestic and transnational political processes, and among ideas, institutions and political interests existing at these different national and transnational scales. In this paper we explore these interactions by comparing the ways in which EITI has unfolded in Peru, Colombia and Bolivia through the lens of political settlements theory. This country sample allows us to compare cases where EITI has been taken up (Peru, Colombia) and where it has been rejected (Bolivia), as well as to compare cases of early (Peru) and late (Colombia) adoption of EITI.

Political settlements frameworks have emerged over the last decade as vehicles for the formal analysis of the politics of development. In particular, these frameworks seek to explain the emergence of institutions that affect the nature and quality of growth and the relative inclusiveness of development processes (Hickey, 2012; Hickey et al., 2015a; Khan, 2010; di John and Putzel, 2009). Settlements are understood as ‘the balance or distribution of power between contending social groups and social classes, on which any state is based’ (di John and Putzel, 2009: 4), and the claim is that these distributions of power determine the scope of possible institutional arrangements and patterns of resource distribution. In their most stripped down form, these approaches understand economic growth and institutions as products of domestic politics, and politics as being driven by interests (Lavers, 2016). That said, interaction effects are also often built into political settlements analysis, such that analyses not only trace the causal links from politics to institutions and growth, but also then trace how this growth and institutional change can go on to foster the emergence of new, powerful actors who are then able to influence the nature of dominant settlements.

Two particular limitations of political settlements analysis are the emphasis on domestic/national-level political relationships at the expense of transnational and subnational politics, and the tendency to understate the degree to which ideas might be constitutive of interests – both in the sense that ideas affect what actors believe their material interests to be, and that actors’ interests may themselves be ideational (that is to say, actors act politically in pursuit of an idea) (Lavers, 2016). In the case of EITI, these limitations are especially relevant, given the transnational origins of the initiative, the existence of important transnational constituencies seeking to foster and frustrate the initiative, the grounding of the initiative in a particular idea

(‘transparency’), and the possibility that at least some of the political mobilisation around the initiative is motivated by a commitment to particular interpretations of that idea, rather than straight economic or political gain.

This paper therefore asks whether the forms taken by EITI can be best explained in terms of an interaction between domestic and transnational politics, or whether a purely national focus is sufficient. Relatedly, we ask whether the national forms taken by EITI primarily reflect global standards or whether it is also possible to identify instances where national innovations have influenced global EITI standards. The paper also asks whether EITI affects the national political settlement (implying a causal interaction between the transnational and the domestic), or whether EITI is taken up without any change in power relations and simply because it becomes useful within existing constellations of power. More specifically, we also ask how far disputes over the meaning of “transparency” have been significant to the ways in which EITI has evolved over time and space and whether the idea has created any political space domestically for those seeking to foster more inclusive development. In response to these questions, we argue that the idea of transparency *has* been important to the take-up of EITI in the three countries, albeit in ways that are sometimes directly linked to elite interests. We also suggest that EITI, and arguments over transparency, can affect the nature of the domestic political settlement, though they do so primarily by helping to deepen domestic political changes that are already underway and that were the same political changes that created the initial space for EITI. Finally, and notwithstanding the prior two arguments, we claim that while transnational actors are an important part of any explanation of the forms taken by EITI in a given country, where explanatory power resides primarily with domestic politics or transnational factors varies. In particular, we argue that national elites have taken up EITI (or, in the case of Bolivia, rejected EITI) as part of a strategy to secure broader goals and to convey particular messages about the state of democracy and political priorities in their countries, including towards actors on the international stage. In sum, we argue that the EITI, and the idea of transparency, are leveraged by national actors to meet domestic political goals and interests, even as these domestic political goals may also be intertwined with other international pressures and contexts.

On a theoretical plane, the analysis supports the argument that political settlements frameworks, while helpful in focusing on domestic politics and interests, should do more to incorporate the transnational and ideational as part of their models of causality and political agency.¹ Empirically, the analysis complements recent research which argues “that in most metrics EITI countries do not perform better during EITI compliance than before it” (Sovacool et al., 2016: 179).² If, as the cases

¹ This is not to imply that no political settlements writing has incorporated the transnational. For relevant work on transnational dimensions see Silva (2013), among others.

² Sovacool and colleagues (2016) considered “eight distinct metrics covering accountability, political stability, government effectiveness, regulatory quality, rule of law, corruption, foreign

of Peru and Colombia suggest, EITI arrives because of political changes that are already underway, and then is often used by national elites to pursue goals that are not specifically EITI-related, it is perhaps not surprising that EITI compliant countries do not perform significantly better on “governance and economic development metrics” (Sovacool et al., 2016: 181) than they did during the periods just prior to compliance.

The paper proceeds as follows. The two sections following this introduction give some background on EITI and outline elements of our theoretical argument. In the fourth section, we describe the different ways in which Peru, Colombia and Bolivia have engaged with EITI. In each case, we consider how the mechanism was initially promoted, the characteristics and motivations that have affected the involvement of different actors in the process, the different ways in which these actors have interpreted EITI and how this has affected their participation. We explore how the meaning of “transparency” has been contested, as some actors have tried to open up new elements of extractive industry decision-making to public scrutiny, while others have tried to constrain the implications of “transparency” in EITI and to render the idea instrumental to the pursuit of their other political and organisational interests. In the closing section, we discuss the implications of these cases and offer conclusions.

The analysis is based on a series of key informant interviews with industry, government and civil society actors who have been involved in, or close observers of, the EITI process in each country. These interviews were conducted in person in country, by skype or by phone and in some instances were complemented with follow-up exchanges by email or in person. Interviewees were identified initially from our own prior scoping work and then on a snowball basis. Our insistence on interviewing people from different sectors and different political positions guarded against risk of confirmation bias. The analysis also draws on secondary published and grey material, as well as direct participation in the biennial EITI Global Meetings held in Lima in February, 2016. We do not, however, engage in analysis of EITI statistics or tax data. This reflects the nature of the study. This is *not* a study of the effectiveness of EITI as a governance mechanism, nor does it take any position on the merits of EITI relative to other initiatives for extractives governance, such as the African Mining Vision. Rather, our focus is on ‘how EITI happened’ in particular countries and the political and ideational factors that have influenced this process. This approach allows us to analyse the interactions between EITI and domestic political settlements and to speak to the broader question of how governance innovations take root, and how transnational and domestic political factors, ideas and interests, interact in this process.

direct investment, and growth in per capita GDP”, while recognising that the indicators for those metrics were imperfect.

B. EITI – origins and rationale

The Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies and civil society organisations working together to promote transparency and accountability in the management of revenues from natural resources. Countries commit to the EITI standard on a voluntary basis and become full members only following an independent certification of accounts that reconcile the figures that companies report having paid and government says it has received. As this is only a voluntary mechanism, some resource-rich countries decide to participate and some do not. Among those countries that declare an interest in adopting the mechanism, only some fulfil the requirements to become full, “compliant” members. This voluntary nature of participation and compliance has been identified as “a fundamental weakness of the EITI” (Sovacool et al., 2016: 187) because it means that national elites and companies more inclined to sustain illegal tax practices can remain outside the initiative. The initiative may therefore be viewed as having a self-selection bias towards better performing countries and companies, though it is also the case that some corrupt governments and companies have joined EITI in an effort to secure a degree of legitimacy without enacting any fundamental changes in behaviour (examples might include Azerbaijan, Guatemala and Honduras).

When it was first formally proposed in 2002 by Tony Blair at the World Summit on Sustainable Development in Johannesburg, EITI was one of a suite of global initiatives launched in the 1990s and early 2000s that were wholly or partly related to transparency and accountability in extractive industry governance (see Figure 1). This suite included the Global Reporting Initiative established in 1997 (and its Mining and Metals Sector Supplement in 2003), the UN’s Global Compact in 2000, the Kimberley Process initiated in 2000 and the World Bank Group’s Extractive Industries Review from 2000 to 2004. Accompanying these global governance efforts was a further set of milestone actions led by civil society and industry groups, including the release of Global Witness’ ‘A Rough Trade’ in 1998, and ‘A Crude Awakening’ in 1999, the creation of the International Council on Mining and Metals (ICMM) in 2001 following the Mining, Minerals and Sustainable Development initiative (MMSD, 2002), the creation of the Publish What You Pay (PWYP) international coalition and campaign in 2002, and the founding of Revenue Watch in 2002 initially as a programme within the Open Society Institute (which also supports PWYP) and subsequently as the separate Revenue Watch Institute in 2006. An earlier, important, precursor was the creation in 1993 of the anti-corruption watchdog, Transparency International, one of whose founding members, Peter Eigen, served as the first Chair of EITI’s International Advisory Group in 2005. Indeed, as in the example of Eigen, a number of ‘nodal’ individuals and organisations have played roles in more than one of these initiatives.

Figure 1. Timeline of global initiatives around extractive industries (red) and transparency generally (blue); EITI in bold text.³

Timeline of global initiatives around extractive industries (red) and transparency (blue)	
1993	Transparency International founded
1997	Coalition for Environmentally Responsible Economies sets up Global Reporting Initiative (GRI)
1998	Global Witness report, 'A Rough Trade – The Role of Companies and Governments in the Angolan Conflict'
1999	Global Witness report, 'A Crude Awakening'
2000	UN Global Compact launched
	Revenue Watch founded (as a programme of the Open Society Institute)
	Mining, Minerals and Sustainable Development Project (MMSD), a research project by the International Institute of Environment and the World Bank initiated 2000-2002
	Kimberley Process discussions initiated, Certification Scheme agreed in 2002, implementation begins in 2003
2001	International Council on Mining and Metals (ICMM) established
2002	Tony Blair proposes EITI at Johannesburg World Summit on Sustainable Development
	Publish What You Pay (PWYP) campaign launched (Global Witness, CAFOD, Open Society Institute, Oxfam GB, Save the Children UK and Transparency International UK)
	Mining, Minerals and Sustainable Development Project (MMSD) Report published
	Global Reporting Initiative (GRI) becomes independent institution
2003	12 EITI principles agreed
	GRI begins pilot of Mining and Metals Sector Supplement, involving ICMM and MMSD and others
	Equator Principles launched
2005	6 EITI criteria established
2007	EITI establish International Secretariat and Board in Norway
2009	EITI rules issued
	GRI publishes final Mining and Metals Supplement
2009	Medicines Transparency Alliance (MeTA) launched as a pilot
2010	Dodd-Frank Wall Street Reform and Consumer Protection Act signed into law (USA)*
2011	Open Government Partnership launched
2012	Construction Sector Transparency Initiative (CoST) launched
2013	EITI standard published
	European Union Accounting and Transparency Directives passed by European Parliament*
	Resource Governance Index 2013 published by Revenue Watch
2016	New EITI standard published

Timeline compiled by authors from multiple sources.

*Note: While Dodd-Frank is technically a US government initiative, it has transnational reach because it requires oil, gas and minerals companies to publicly report any payments made to either the US federal government or foreign governments "for the purpose of the commercial

³ Sources for table include: on Dodd Frank, <https://www.congress.gov/bill/111th-congress/house-bill/4173>; <https://www.transparency.org/whoweare/history>; <https://www.globalwitness.org/en/archive/rough-trade/>; <https://www.opensocietyfoundations.org/about/history>; <http://www.kimberleyprocess.com/en/about>; <http://www.iied.org/mining-minerals-sustainable-development-mmsd>.

development of oil, natural gas, or minerals”.⁴ The European Union’s Accounting and Transparency Directives were modelled after Dodd-Frank.⁵

In this sense, EITI was part of a larger family of initiatives, while also having certain distinctive characteristics. First, it was explicitly meant to be tripartite, with substantive involvement of business, state and civil society (though at the national level, states have to initiate and lead the process). Second, though originating from the proposal of a British prime minister, and being tripartite in spirit, EITI exists as a non-profit organisation registered in Norway with a board composed of representatives from governments, companies and civil society organisations).⁶ Third, although EITI is a mechanism of transnational governance, it only takes form when it becomes embodied in the institutionalised actions of governments, companies and civil society in a particular country. Given that it is voluntary in nature,⁷ this raises the question of why a government in a particular country would choose to engage with EITI and why it is that companies chose to support rather than obstruct such a process.

Underlying EITI is the idea that “More openness around how a country manages its natural resource wealth is necessary to ensure that these resources can benefit all citizens”.⁸ EITI thus establishes a process through which information on the amounts of tax paid by extractive industry companies, and received by governments, is made publicly accessible. Theoretically, the initiative is based on the belief that by changing incentives through the public provision of information, the behaviour of companies and governments can be changed. The presumption is that once they know that such information will be transparent, companies and governments are more likely to engage in lawful and honest tax paying and tax taking, which would in turn reduce corruption and evasion and increase the fiscal resources available for investment in

⁴ Sec 1504, HR 4173, see: <https://www.congress.gov/bill/111th-congress/house-bill/4173>.

⁵ Directive 2013/34/EU at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013L0034> and Directive 2013/50/EU at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1415872329209&uri=CELEX:32013L0050>.

See also: <https://www.theguardian.com/global-development/2013/jun/12/european-union-laws-extractive-industries-payments>; and <https://www.oxfamamerica.org/press/uk-passes-historic-transparency-law-for-oil-gas-and-mining-companies/>

⁶ EITI also has “stakeholders” which are “supporters” including companies, civil society, partner multilateral organisations, and institutional investors. See <https://beta.eiti.org/stakeholders>.

⁷ EITI is voluntary, in that individual countries choose whether to enter into the EITI process or not. Once the country participates, the national Commission has to agree on the criteria for domestic participation and what taxes and payments are included, making sure that any omission does not affect the comprehensiveness of the EITI Report. In Peru, for example, the National Commission agreed that companies’ participation was voluntary, but the report had to include at least 75 percent of the value of production. Other countries, such as Nigeria, have made “reporting of payments by all extractives companies and revenues received by government legally binding under national legislation” (EITI 2012: 2, available from <https://eiti.org/files/Case%20Study%20-%20EITI%20in%20Nigeria.pdf>).

⁸ <http://eiti.org/eiti>

development.⁹ The second, related presumption is that by making this information publicly available, citizens will mobilise the available information to hold governments and companies accountable. In this sense, EITI is an application of concepts from information-theoretic economics and as such has been subject to some of the same critique that has been levelled at this theory, namely that it interprets asymmetries of power as asymmetries of information and as such elides more structural sociopolitical inequalities and turns a political problem of power into a technical problem of information (Fine, 1999; Li, 2007). Of course, the originators of EITI were very probably aware of these socio-political inequalities, but opted to address them through a strategy that would not confront power head on. The question then becomes, has the indirect strategy of transparency been sufficient to address power relations, or has it had the ultimate (unintended) effect of diverting attention away from them and towards the mechanics of information reporting.

After the initiative was launched in 2002, the following year 12 principles were agreed upon that would guide the implementation of EITI and to which participating parties would have to subscribe. Taken in the round, these principles reflect an attempt to address corruption (understood as undermining development) while affirming a belief that natural resource extraction can contribute to inclusive development if there is transparency, accountability and public debate. The principles also acknowledge that how this contribution is realised in practice remains a sovereign decision of nation states.¹⁰ In 2005, six criteria were established that would have to be satisfied if a country was to be deemed a candidate and subsequently compliant country. In 2007 the institutional machinery to set the EITI in motion was created in the form of a secretariat in Norway and a board. Over time, EITI has issued other updates, the most important of which was a revised EITI Standard in 2013. Among other things, this encourages much clearer links between transparency and wider reforms, and requires forms of reporting that: are more understandable and accessible to citizens; give information on all forms of social spending that companies are legally required to make as well as on transfers of extractive revenues to subnational governments; require that information be disaggregated to company-specific levels; and oblige state-owned enterprises to declare any financial transfers made to other parts of government as well as their shareholding in other companies.¹¹ The latest version of the EITI Standard was published in 2016, also requiring an estimation of the scale of artisanal and small-scale mining as part of the extractive economy of a country, as well as a consideration of contracts, concessions and beneficial ownership (EITI 2016: 30).

As noted, the decision on whether to enter EITI is made by national governments. In order to become fully EITI compliant, the country must, having made its formal declaration of desire to enter EITI, implement a series of reforms that would make it a

⁹ Though EITI does not help address evasion through transfer pricing, as discussed in the Mbeki report (Mbeki Panel, 2015).

¹⁰ <https://eiti.org/eiti/principles>

¹¹ <https://eiti.org/document/standard>

candidate. In particular, the national government has to give legal standing to the EITI process in the country (i.e. the process has to be constituted as a formal and legally recognised institution) and then create a national multi-stakeholder EITI commission involving government, industry and civil society. This commission is charged with determining the scope of EITI (i.e. determining what will and will not be made transparent, over and above the requirements of the basic EITI Standard) and with overseeing the implementation of EITI. The commission is also intended to be a venue for broader discussions of natural resource governance in a country (i.e. its mandate goes beyond the simple implementation of EITI procedures). The country then has to put together accounts that show all the payments made by extractive companies under the categories required by the EITI Standard, and all the payments received by governments. These two sets of accounts – payments and receipts – must then be reconciled, leading to a reconciliation report typically prepared by an international accountancy company. Finally, the process and all documentation must be validated by the EITI board.¹² Once validated, the country becomes EITI compliant.

EITI has been both welcomed and questioned by actors across the political spectrum. Some observers view EITI as it views itself: namely, as a transparency mechanism that can lead to more effective investment of natural resource revenues in inclusive development. More critical observers argue that it can easily serve to divert attention from more serious issues surrounding the political economy of extractives, and in the process keep discussions on the quality of democracy and regulation within neoliberal bounds. Whatever the case, it is clear that the transaction costs associated with implementing EITI are significant, which raises the question of what motivates governments to decide to assume such costs, and then also what motivates extractive companies, civil society and transnational actors to share in these same costs. These motivations are presumably related to the domestic and transnational politics that shape the roll-out of EITI in a given country and also shape the ways in which ‘transparency’ is interpreted and applied in national EITI processes, as will be seen in the cases below. Theoretical literature on EITI, political settlements and the drivers of institutional change throws some light on this question.

C. Political settlements, EITI and transparency: a scalar politics of interests and ideas

Settlements and a scalar politics of institutional emergence

The institutions governing a society at any one point in time reflect the prevailing political settlement (Khan, 2010; Hickey et al., 2015a) or political equilibrium (Acemoglu and Robinson, 2012). This is so both at an aggregate level as well as in relation to particular resources (such as oil or diamonds: Hickey et al., 2015b, Poteete, 2009) and domains (such as rural areas: Berdegué et al., 2015a; 2015b).

¹² While these steps may seem clear-cut, in practice definitions are always subject to debate, as will be clear in the case studies below.

Talking of political settlements and oil governance in Uganda, Hickey and colleagues (2015b) comment:

“A political settlement refers to ‘the balance or distribution of power between contending social groups and social classes, on which any state is based’ (di John and Putzel, 2009: 4), which is arrived at initially through a process of struggle and bargaining between elite groups. Within any political settlement, the organisation of the ruling coalition is critical, particularly in terms of the ‘horizontal’ and ‘vertical’ power of different groups, whereby horizontal power refers to the capacities of groups excluded from the coalition and vertical power refers to the power of lower-level factions which support the ruling coalition from within” (Hickey et al., 2015b: 3).

While the very notions of settlement or equilibrium imply a degree of stability to such arrangements, these concepts of horizontal and vertical power draw attention to some of the ways in which settlements, or at least the institutions to which they give rise, might change or be periodically ‘unsettled’. In a similar vein, Mahoney and Thelen (2010) note that endogenous institutional change can occur when particular social actors accrue greater power and are able to mobilise for change. In addition, they argue that institutions can also change when prevailing arrangements become obsolete for the needs of dominant groups, when there are contradictions among different co-existing institutions, or when new institutions get grafted onto old ones and slowly transform them. These observations are important, because they recognise that institutional change might well occur without any substantial change in relationships of power, but rather because dominant groups begin to see the advantage of shifts in the rules of the game. The implications for thinking about the emergence of EITI in a given country are clear: namely, it *could* reflect an accommodation of changing power relations, but it could also occur without any change in power relations at all, and simply because it becomes useful within the existing constellation of power as a result of changes in the broader political and economic environment.

The political settlements literature tends to understand institutional emergence as an endogenous process hinging around relationships among national elites and the ways in which these elites engage with less powerful groups (Khan, 2010). Mahoney and Thelen’s treatise on institutions also emphasises endogenous sources of change, but recognises that change can also be driven by factors that are exogenous to the institutions, nations and territories in question (Mahoney and Thelen, 2010; see also Berdegué et al., 2015a). Such factors can be economic (Ospina et al., 2015), political (Boix, 2008) or ideational (Hall, 2010; Blyth, 2002; 2013) in nature. Keck and Sikkink’s (1998) work on transnational advocacy networks also draws attention to exogenous sources of institutional change. They identify a ‘boomerang’ pattern in which domestic activists, frustrated by the intransigence of their own state, or simply operating in a minority, seek international allies to pressure their states from the outside. Keck and Sikkink describe the networks through which this advocacy

operates as communicative structures and political spaces that include actors “bound together by shared values, a common discourse and dense exchange of information and services” (1998: 89). At the same time, these networks also make international resources available to actors involved in domestic political and social struggles.

Albeit from a different theoretical starting point, Ferguson and Gupta (2002) also argue that a fixation on the nation state and its institutions diverts attention from the ways in which practices of ‘transnational governmentality’ are often at work in the operations of national and local institutions. Drawing on the concept of ‘governmentality’ proposed by Michel Foucault, they highlight how new global modes of government such as the WTO (or in this case the EITI) enable “new strategies of discipline and regulation”, at the same time as transnational connections between local grassroots activists or national NGOs with international organisations and funding networks can also enable local actors to challenge the state’s historical spatial and scalar dominance of the local, partly by appealing to the ‘supranational’ scalar-spatial frame (Ferguson, 2006). In ways that are especially relevant to any reflection on EITI, they draw particular attention to the ways in which transnational oil corporations and non-governmental networks can be at least as powerful as the national state in governing people, places and resources (see also Ferguson, 2006).

Just as the national focus of the settlements literature is limiting, so too can be the emphasis on elite politics that can characterise much political settlements writing. Even if inter-elite bargaining and compromise is clearly important (and insufficiently understood), popular mobilisation and civil society strategising can also be endogenous drivers of institutional change. It would, for instance, be hard to explain fundamental political and institutional transitions in contexts as diverse as Bolivia, South Africa or Poland without recognising the significance of such popular politics and the emergence in civil society of what Khan (2010) would term new forms of ‘holding power’. Likewise, as noted earlier, an important driver in the emergence of EITI as a transnational initiative has been the work of diverse sorts of civil society organisations at all scales, seeking to force extractive enterprises and states to reveal information regarding the tax revenues from mining, oil and gas operations. Any adequate account of the political drivers of EITI thus has to address civil society actions, as well as those of political and economic elites.

Together, these arguments make the point that institutions can be both maintained and changed by factors that are both endogenous and exogenous to the territories governed by those institutions. While the language of political settlements deals primarily with endogenous sources of institutional stability and change, approaches such as those of Keck and Sikkink and Ferguson and Gupta emphasise the role of external, transnational actors – actors that can be in the corporate, civic or inter-governmental spheres. Bringing these different approaches together suggests the complex and contingent spatial and scalar politics that are at play when international initiatives such as the EITI unfold in national contexts.

Politics of ideas and interests

The scalar politics surrounding EITI is clearly one of interests: companies have interests in maximising profit, gaining access to natural resources and securing their legitimacy (their 'social licence to operate'); government and domestic political elites have interests related to the public budget, their particular political projects and personal gain; civil society organisations have interests in securing funding, visibility and participation in decision-making processes. But this politics is also one of ideas. Indeed, EITI can be understood as an effort to usher in an idea, 'transparency', as a means of enhancing accountability and participation, changing policy frames, and in this way slowly shifting relationships of power and understandings of development. As suggested by the timeline in Figure 1, EITI was not alone in seeking to build institutions around transparency and related ideas. Indeed, Haufler (2010) argues that the idea of transparency in EITI intersected with and piggy-backed on other global agendas and transnational networks around anti-corruption, corporate social responsibility and human rights, suggesting that "overlapping networks reinforce particular policy solutions" (2010: 55). She distinguishes the dissemination of the idea of transparency from its institutionalisation as a governance mechanism, suggesting that the latter "is due both to the agency of particular activists and policy entrepreneurs who struggled to establish the program and expand it, and the growing embeddedness of transparency within multiple campaigns and agendas" (Haufler 2010: 54). Following Finnemore and Sikkink (1998), she points to a process by which norm entrepreneurs (both elite and in civil society) have made use of an international idea of transparency as embodied in EITI to strengthen their domestic positions. Also important in Haufler's analysis is the notion that ideas can be promoted in "bundles". In her argument, the ideas of transparency, corruption as anti-developmental, human rights, social responsibility and others operate as something of a package that is potentially more powerful in reframing debates than any single idea would be. It is also possible that such "bundles" may have more traction when being introduced into contexts where processes of democratisation are already unfolding, even if there is always some risk that such ideas can be depoliticised and made instrumental to quite distinct interests (as shown by Dagnino, 2007).

Similar to Haufler's attention to "embeddedness" and intersecting agendas, and to Mahoney and Thelen's ideas of endogenous institutional change, Gillies' (2010) exploration of the emergence of transparency in the oil sector points to the notion of "grafting" to describe how the new norm of transparency benefited from being adjacent to other more established norms. Again suggesting that civil society actors have been important players in this process of institutional change, Gillies draws attention to the effectiveness of NGO transparency advocates in their role as 'norm entrepreneurs'. These individual actors can be important in influencing debates in ways that are not only framed by elite politics. The way actors frame issues and set the agenda is an important element of how transparency became accepted as part of wider policy discussions of natural resource management, she argues. Some actors may start with particular shared values and commitment to norms that include

transparency: “Activists, particularly those based in the North, strategically deploy ideas and promote new norms, manipulating the international agenda” (Haufler 2010: 57). However, as we will show below, domestic activists, including those based in the South, can be just as important as international ones, and the strategic deployment of ideas need not only be the domain of activists. In several instances in our cases, the private sector and the state have also sought to make strategic use of norms of transparency in order to promote their interests – interests which, furthermore, need not be aligned with each other.

Gillies’ analysis (2010) also highlights the intertwined nature of interest-driven and norm-driven decision making in efforts to institute transparency in oil governance. Despite the appealing idea that information disclosure can contribute both to substantive development objectives (reduced corruption, greater market efficiency, more equitable distribution of natural resource revenues) and procedural/normative goals (increased empowerment of civil society to hold governments accountable, increased trust, cooperation and legitimacy of institutions), the impulses around information disclosure can be contradictory in nature (Haufler 2010; Gillies 2010; Bracking 2009). Thus, while individual companies might, in principle, endorse transparency, they may resist being ‘first-movers’ in increasing information disclosure, because this could affect their competitive position. Likewise, even while governments may speak of transparency, they may resist greater information disclosure when it undermines the wealth and position of existing elites with whom elected parties have to sustain a settlement (Haufler 2010; Gillies 2010). On the other hand, Gonzalez-Espinosa and Klein (2013) argue that EITI can be of such significance as a form of symbolic capital and source of external legitimacy in an international context where norms act as gatekeepers to membership in communities, that governments may nonetheless be inclined to ‘open up’ even when domestic elites resist. At the same time, corporate actors may anyway decide to participate in EITI at the international level to the extent that this enhances their discursive influence over the formulation and adaptation of the standards (Gonzalez-Espinosa and Klein 2013) as well as their overall international standing.

Gillies suggests that some of these ideas help understand the emergence of transparency in the oil sector, which she describes as representing “a surprising development in a sector previously characterized by carefully guarded opacity” (2010: 103). The assumption was that “greater transparency would reduce corruption and mismanagement, and increased accountability would engender the more development-oriented conduct of industry affairs” (2010: 103). Given anticipated resistance, she asks: what explains the surfacing of the transparency norm in such a seemingly inhospitable environment? Gillies suggests that ‘reputational concerns’ became a particularly important factor in the emergence of the international transparency norm, of which EITI is emblematic:

“The ascendance of oil sector transparency served the reputational agendas of several prominent international actors, specifically international oil

companies (IOCs) and international financial institutions (IFIs) based in Europe and North America as well as several Western governments” (Gillies 2010: 104).

The author argues that this factor played the more influential role and enabled the norm to more fully infiltrate industry as well as international institutional discourse. This also begs the question of why oil companies began to worry about this source of reputation – suggesting that the transnational advocacy work of groups such as Global Witness, and their ability to position (and substantiate) ideas about corruption in international debate, was an important factor in driving institutional change.

The transnational context might, of course, influence these changes in less progressive ways. Haufler argues that the focus on disclosure fits well with a broader global normative environment in which neoliberal norms dominate, emphasising market efficiency and corporate leadership. Transparency was viewed, she argues, “as a way to lightly regulate the private sector, and information disclosure as efficiency-enhancing and necessary for the proper functioning of markets” (Haufler 2010: 56). Transparency ‘fitted’ with the existing international environment, and from some perspectives was “a low-cost solution to intractable problems in the developing world, a kind of ‘cheap’ foreign policy” (p. 58).

At a national level, Gonzalez-Espinosa and Klein highlight the importance of paying attention to the meaning that different actors attach to the standards and instruments of EITI, and their ability to make ‘their’ meanings of transparency the hegemonic ones (Gonzalez-Espinosa and Klein 2013). “Institutionalisation is heavily dependent on how national actors implementing the norm can mobilise their strategic interest through the process” (Gonzalez-Espinosa and Klein 2013: 112). They argue that EITI can be a provider of legitimacy for the extractive sector, helping to draw attention away from polemic national debates around the existence or appropriateness of extractive projects, or the appropriate distribution of rents. Gonzalez-Espinosa and Klein go on to suggest that “the presumed technical nature of the EITI remains a smoke-screen as motivations underlying the initiative are deeply political” (2013: 117). The ability of industry actors and sectoral ministries to impress their meanings and interests on EITI depends, however, on how national political struggles between different actors play out, and there is no necessary reason why industry-specific elites should always be able to establish hegemonic control over the meanings and practices of transparency in any given context. Indeed, as the case studies will suggest, even when the sector is strong and clear on its interests, both state and non-state actors have pulled EITI in directions that can be discomfiting for the industry. Indeed, some national activists explicitly seek to leverage the EITI as a way to create new spaces for more informed and open political debate on resource extraction.¹³

¹³ In Colombia, one person noted that: “There is urgency in converting [the EITI] into a public debate” (Interview Colombia 4).

Summary

Rather than offer a comprehensive review of either the literature on EITI or that on political settlements and institutional change, this discussion links these different bodies of work to make the following points. First, an institutional change such as the national take up of EITI has to be understood as the product of both domestic and transnational politics. Where primary causality is likely to reside, however, is unclear. While EITI originated from transnational actors, and domestic actors themselves have transnational linkages, national political dynamics are likely to exercise considerable influence over the probability that a country adopts EITI, as well as over how it seeks to make use of EITI. In many instances, it is probable that transparency, accountability and participation initiatives will begin to take root when a country is already on the path towards political opening (or, in North et al.'s [2009] terms, en route to a deepened open access order). That is, rather than cause opening, such transnational initiatives are more likely to further it. Understanding what actually happens with EITI therefore requires grasping these interactions between the national and the transnational.

Second, the final forms taken by an institutional change whose identity and legitimacy rests on an idea (in this case, that 'transparency' is good for development) have to be understood in terms of the politics surrounding the precise meanings that different actors give to that idea. While the meanings that actors try to impose will be affected by their interests, these meanings are also likely to reflect deeper normative commitments (e.g. to participation or to elite superiority). Furthermore, the valence of a given idea may take on its own causal power, restricting certain sorts of interest-driven behaviour and facilitating others. The very fact that an idea such as 'transparency' so often comes bundled with other ideas of participation, accountability, anti-corruption and so on reflects this valence. Much of the struggle over such ideas in the definition of policy is thus likely to involve a tension between how far particular actors can instrumentalise an idea in the service of their own interests, and how far the power of the idea resists such instrumentalisation. Another dimension of this politics of ideas is how far one problem framing can facilitate the exclusion of other problem framings – in this case, the possibility that a framing around transparency can help displace framings that might otherwise have focused on asymmetries of power.

Placing these literatures in conversation with each other does not lead to simple causal models: ideas may rework a politics of interests, but interests may also instrumentalise and depoliticise ideas; transnational initiatives may open up space within national political settlements, but domestic politics may also determine if and when these transnational initiatives take hold nationally and may also influence how the initiatives then unfold; institutions may change because of a change in the political settlement, but they may also change because other changes (including in the international landscape) lead parties in the settlement to conclude that their interests will now be best served by a change in institutions. The three country cases

discussed in the following section illustrate the complexity and contingencies of these different possibilities and interactions. Taken together, however, the cases do ultimately suggest that while EITI does increase transnational influence in the domestic politics of resource extraction, and while the idea of transparency has led to increased public information about extractives, the national political settlement has a significant influence on how and why transparency initiatives unfold as they do.

D. Divergent paths on the route to EITI: Peru, Colombia and Bolivia

In the following three sub-sections we discuss the different ways in which three Andean countries, Peru, Colombia and Bolivia, have responded to EITI. In each case we present the history of these divergent engagements with EITI and explore the motivations, interests and strategies of civil society, business and government actors and how these have affected the institutional forms and practices that have emerged around EITI. We pay particular attention to the ways in which these actors have tried to give particular meanings to the idea of transparency, and to use their leverage to institutionalise these meanings. We do not analyse any EITI country reports or statistics, as our focus is not an evaluation of the effectiveness of EITI. As noted earlier on, Peru is the only country of the three that is currently EITI compliant. After a couple of false starts, Colombia applied for candidature and was accepted in October 2014,¹⁴ publishing its first report in December 2015,¹⁵ while the MAS administration in Bolivia has decided that it has no interest in EITI. Peru and Colombia are committed to neoliberal economic models, while Bolivia's development model involves a particularly active role for the state in governing the economy and redistributing natural resource wealth. Both Bolivia and Peru have a long tradition of significant mineral extraction (it is only more recently that mining has become nationally significant in Colombia), and all three countries have extracted oil and gas since the 19th and early 20th centuries.

As noted earlier, the selection of the three countries allows us to compare cases where EITI has been taken up (Peru, Colombia) and where it has been rejected (Bolivia), as well as to compare cases of early (Peru) and late (Colombia) adoption of EITI. (The inclusion of the case of Bolivia, where EITI was rejected does, however, have the effect that the discussion of one of our cases is much shorter because by definition there is less to analyse.) The comparisons and contrasts help illuminate some of the key factors influencing the articulation between EITI as a transnational initiative and the national politics of extractive industry, as well as the interactions between interests and ideational commitments in these processes of institutionalisation. Importantly for the purposes of this discussion, in 2000 Peru emerged from a two-decade period of acute internal conflict and a decade of authoritarian rule (Sanborn et al., 2016, forthcoming); in 2010 Colombia ended an eight-year period of conservative and effectively authoritarian rule; and in 2006

¹⁴ See <https://eiti.org/news/colombia-accepted-candidate-resource-transparency-body>.

¹⁵ While the report is dated December 2015, it seems it was presented only in February 2016 before the EITI Council, and publicly in Colombia in March 2016.

Bolivia began a period of rule characterised by anti-imperialist, state-centric and social movement-directed government (Humphreys Bebbington and Grisi Huber, 2016, forthcoming). These transitions each marked important breaks in the political settlement in each country, breaks which have had significant implications for the dynamics surrounding EITI.

Peru

In 2004 Peru was invited to join the EITI, and declared a formal interest to adhere in May 2005. Early impulses came from the World Bank, and in particular from Eleodoro Mayorga, a Peruvian World Bank official (and more recently, Minister of Energy and Mines from 2014 to 2015). Within the Peruvian government, a key promoter was the then-Minister of Energy and Mines, Jaime Quijandría. As the country emerged from the authoritarian regime of Alberto Fujimori (1990-2000), it became a priority of the new government that it should signal (internationally and domestically) a renewed commitment to democracy, transparency and accountability. Given the centrality of extractive industries to Peru's economy, and in particular the rapid growth in the mining sector (in which the investment of transnational companies was critical), it made sense that EITI be one of the ways to convey that Peru was re-democratising and opening up to scrutiny a series of governance processes that had been murky during the prior regime.

Beyond the World Bank, other international actors were also keen to support the effort. Canadian cooperation, Swiss bilateral aid, the International Finance Cooperation and Oxfam have each financed the EITI process in Peru. Some companies also played an important role. For instance, following a request by Minister Quijandría to the G7 for support around anticorruption issues, the UK sent a mission to Peru in 2004 to promote the EITI. Transparency International, the World Bank, and AngloAmerican (a multinational mining company) participated in those initial steps. Not long after this mission, in 2005, Quijandría officially declared that Peru would adhere to the EITI (Interview Peru 7).

Following the general process outlined by EITI, a working commission was formed with the mandate to create a work plan, and in May 2006, by Supreme Decree 027-2006-EM, the Peruvian government approved the Action Plan for the Implementation of EITI and gave legal recognition to the national commission in charge of implementing this plan. The working term of the commission has been extended through several subsequent decrees.¹⁶ The national commission consists of: the Ministry of Energy and Mines, also the chair; the Peruvian Mining, Oil and Energy Society (a confederation of the majority of medium- and large-scale companies operating in Peru); representatives of individual mining and hydrocarbon companies; and representatives from universities and civil society organisations involved in

¹⁶ Supreme Decree N° 030-2007-EM, Supreme Decree N° 044-2008-EM and Supreme Decree N° 020-2010-EM. It was only in 2011 that a 'permanent working committee' was created by Supreme Decree N° 028-2011-EM.

transparency and citizen monitoring of the extractive industries. The decree also created the Secretariat of the National Commission (*Secretaría Técnica de la Comisión Nacional*) ascribed to the Ministry of Energy and Mines and managed by the Ministry's Office of Social Management (*Oficina General de Gestión Social*).

The commission is in charge of hiring consultancies to develop the 'conciliation studies' that compare tax payments reported by companies and tax receipts registered by government. To date there have been four conciliation studies completed. In 2009, the first conciliation study by Ernst and Young covering the 2004-07 period was published, and in 2011 the second conciliation study also by Ernst and Young covering the 2008-10 period was released, which allowed Peru to be a fully compliant member. Importantly, the national commission has a broader mandate than solely taking actions oriented to the implementation and development of EITI, and is also tasked with collecting information about, and supervising and monitoring the transparency and use of resources and fiscal revenues obtained by the state from any source related to mining and hydrocarbon extractive industries.¹⁷ In practice, however, it has mostly limited itself to the production of EITI reports.

Civil society participation in these processes of monitoring revenues was required by the principles of EITI and there were several civil society organisations that expressed interest in being involved. They were asked to select among themselves two organisations for the commission, one based in Lima and another based in a province. *Grupo Propuesta Ciudadana* (GPC) and Cusco-based NGO *Centro Bartolomé de las Casas*¹⁸ (CBC) were appointed to the commission at an assembly of civil society organisations working on transparency issues, through a voting procedure. Private sector members of the commission lamented that the more centrist, business-friendly *Ciudadanos al Día* was left out of the process, arguing that they were the ones with the appropriate technical capacities and that in the election "extremists got together and good institutions were left out" (Interview Peru 7). This itself is a telling comment, given that to many observers GPC and CBC are relatively centrist and even technocratic NGOs, and indeed *Propuesta Ciudadana* has been an important promoter of EITI since the beginning of the commission (and over time other members of the commission have come to acknowledge its technical capacities).

In 2009, CBC was replaced by the national NGO *Cooperación* – a more critical NGO with clear specialisation in mining – on the grounds that the meetings of the commission take place in Lima and it was impossible for CBC to assist on a permanent basis. While harbouring doubts about the value of EITI, *Cooperación* ultimately chose to join the commission, though two years later it was replaced by the NGO *Derecho, Ambiente y Recursos Naturales* (DAR), a national NGO focused on

¹⁷ It is also important to note that other countries are suggesting that EITI be applied to forestry and fishing activities.

¹⁸ See: <http://www.cbc.org.pe/>

the Amazon and with expertise in oil – the rationale being that while EITI also addressed hydrocarbon issues, civil society and university members of the commission were up to that point too focused on mining. A representative of DAR is now part of the global EITI board.

While the technical secretariat of EITI in Peru is located within the Ministry of Energy and Mines, the state's role in EITI has been ambivalent. One measure of this ambivalence has been that, notwithstanding vast tax revenues that extractive industries have generated for the state, the EITI process in Peru continued until very recently to depend on financial resources from a multi-donor trust fund. During Alan García's government (2006-11) most commission members felt that the government did not prioritise the initiative at all, in part because the *Oficina General de Gestión Social* was so focused on managing mining conflicts. In that context, however, civil society and companies' representatives worked together more closely to sustain the process and move it forward. This reduced, at least partially, the lack of trust between these sectors (Interview Peru 4) and some attribute the current leadership of Peru in the EITI to its commission being 'mature' and internally collaborative (Interview Peru 8). However, during the subsequent Humala administration (2011-16), the *Oficina General de Gestión Social* had greater support from the minister (and perhaps especially when Eleodoro Mayorga became minister: see above). This support has been important for the roll-out of EITI, and one state official commented that "the success of the initiative depends on the effort the officer puts into it and how the activities of the office are prioritised. The power of the officer to impose a pace in the implementation should not be neglected" (Interview Peru 9).

Why were these different actors interested in being part of the EITI? As mentioned, the government had an initial interest in showing to the world a new image of democracy and transparency following the Fujimori regime. More recently, the *Oficina General de Gestión Social* has come to view the initiative as a niche in which Peru can stand out internationally, and is proud to be giving advice to other countries such as Colombia and Guatemala and to have organised EITI's 7th global conference in Lima in February 2016.

For their part, extractive industry companies had several reasons to be interested in EITI. Transnational mining companies such as Antamina, AngloAmerican and Southern Peru were in favour of the initiative from the beginning, arguing that it would favour Peru in its new democratic phase. As conflicts around extractives increased (de Echave et al., 2009; Bebbington, 2007), some companies also saw EITI as one more mechanism through which to defend themselves. It offered independent, tripartite confirmation that they were paying the taxes they were supposed to pay, and also allowed them to claim a certain moral high ground.

"We had nothing to hide. Now our opponents don't have that argument [that taxes were not being paid] any more, and furthermore, we are in the position

to ask others to be transparent, including NGOs which are not characterised by their transparency” (Interview Peru 7).

Furthermore, some companies saw transparency in tax payments as just a starting point. Their goal was to expand the focus of EITI such that it addressed how government was spending these taxes, especially at the subnational levels. With this type of argument, the more active companies in the process (such as AngloAmerican and Antamina) were able to convince more reticent ones to participate in the initiative (Interviews Peru 6, 7 and 8). More generally, the large-scale, transnational companies in Peru were already accustomed to discourses and practices regarding transparency, accountability, participation and multi stakeholder action, and for most of them, their corporate social responsibility criteria more or less demanded that they support and comply with EITI. Conversely, a number of Peruvian-owned companies, sometimes owned by heirs of families from the old landed oligarchy, were less familiar with ideas of transparency. They were initially reluctant, arguing, among other things, that revealing EITI data could cost them competitive advantage and even increase possibilities of extortion.¹⁹ Over time, however, most companies have found the mechanism useful, arguing that EITI ‘proved’ that they were paying what they should pay, and that the real culprit in poor management of fiscal resources was the state.

As within the private sector, so among civil society and academic organisations opinions were divergent as to the merits of EITI – albeit for different reasons. The two universities (the *Universidad Católica* and the *Universidad del Pacífico*) were invited, based on their expertise in themes related to transparency and extractive industries. The *Universidad Católica* already had an ongoing relationship with the World Bank in work related to promoting transparency through information systems, and one of the ways of continuing and maintaining this relation was through engaging with EITI. The *Universidad del Pacífico* also had a strong academic reputation for its work related to extractive industries, though some members of the faculty have harboured doubts regarding the importance of revenue and tax transparency for Peru, relative to other more serious challenges in the governance of extractives. Though the technical capacities of these two universities are unquestionable, it is not entirely clear that they are the most representative. Both are private universities and are Lima-based. A strong case could be made that public universities from the regions in which resource extraction occurs should be sitting in the commission – even though this would pose practical challenges since the meetings of the commission take place in Lima.

Those Peruvian civil society organisations which have played an important role in moving the EITI process forward, have done so as part of their own broader efforts to deepen processes of re-democratisation. In the aftermath of the authoritarian regime of the nineties, civil society organisations working to strengthen democratic

¹⁹ The point on extortion, though slightly tongue in cheek, has also been noted in the literature (Kolstad and Wiig, 2009).

mechanisms were already active in promoting participation, dialogue, transparency and decentralisation agendas. Among the various initiatives for which they advocated were: a decentralisation process that began in 2002 and is still ongoing; the creation of new mechanisms of accountability and civic action, such as participatory budgeting, *Mesas de concertación* and local and regional coordination councils; and a Transparency and Access to Information Law, approved in 2002. GPC²⁰ had already been developing a system for monitoring the decentralisation process in Peru, and in particular the subnational management of revenues received from extractive industries²¹ (on these revenues see Arellano-Yanguas, 2011). As in the case of the transnational companies, EITI therefore dovetailed with initiatives that a number of NGOs were already pursuing. Furthermore, GPC had close links to Revenue Watch Institute (now NRGI) which itself is formally committed to rolling out EITI internationally and the two organisations are located in the same building. For GPC, being able to sit on the commission also enhanced its access to and relations with government and companies, which was helpful for its broader efforts to open up extractive industry revenue management to public debate and scrutiny in Peru. That said, neither RWI/NRGI nor *Grupo Propuesta Ciudadana* saw EITI and the commission as a mechanism *solely* for addressing tax transparency. The goal was to sit on the commission with a view to expanding the remit of EITI and to broaden the terms of debate around extractive industry and transparency.

Other non-governmental organisations were more reluctant to participate, and argued that addressing other conflicts around extractive industries was much more important than addressing tax payments and receipts. They felt that EITI ignored these other issues and conveyed a sense of “suddenly pretending everything was fine and that all actors were now friends” (Interview Peru 1). Some NGOs felt that, compared with environmental and social concerns, financial transparency simply was not a critical issue in Peru (Interview Peru 5). They felt uncomfortable with the very restricted sense in EITI of what is and is not important: “The topic here is not prior consultation, human rights or the environment. It’s like saying: everything else can be open to discussion, but you can’t steal the money”²² (Interview Peru 1).

Notwithstanding the support of many different actors, and the still limited focus of EITI in Peru, the process of implementing the initiative has involved constant discussion and negotiation within the commission, as some actors seek to limit the scope of what is included under transparency to defend their interests, while others seek to broaden its meaning in pursuit of their objectives. One domain in which this played out regarded how far payment declarations should be on a company-by-company basis (this prior to the new 2013 global standard). In Peru’s case, the conciliation studies include payments on income tax, royalties and ‘derechos de vigencia’, and have to represent no less than 75 percent of the value of annual

²⁰ See: <http://www.propuestaciudadana.org.pe/>

²¹ For one interviewee, Propuesta Ciudadana is a sort of ‘EITI 2’ in the country (Interview Peru 2).

²² “[T]odo lo demás es discutible, pero no puedes robarte la plata.”

mineral production value and no less than 85 percent for hydrocarbon production (Comisión Multisectorial de Trabajo de ITIE Perú, 2011). To collect the necessary data, the national commission had to ask the companies (mostly large-scale transnational companies) to send an official letter to the internal revenue superintendency (SUNAT), allowing it to disclose tax payment information to the commission. This was not straightforward, because legislation in Peru guarantees tax payment secrecy to contributors. Initially, some companies were nervous about this initiative, because they did not want their individual payments to become a matter of public knowledge (which of course limits society's ability to use EITI to hold particular companies to account). The extractive sector initially won this argument, and it was agreed that the results would be published in an aggregate form by sector (mining or hydrocarbon), so information could not be disaggregated per company. However, the industry's 'victory' was short-lived, and by the time of the fourth conciliation study, the new global EITI standard required that all information be disaggregated down to a company-specific level, suggesting that ultimately transnational pressures within EITI were able to change company and government transparency at a national level.

In 2011, Congressman Coa presented a bill (Proyecto de Ley 713-2011-CR) that proposed making EITI a mandatory mechanism, instead of a voluntary one. Each big or medium-sized company would have had to present their data to the EITI commission. The bill also proposed that the commission present an audit report of the concession contracts. The bill met different responses within Congress, evidence of the fact that different parts of the legislature reflect (if not represent) the concerns of different actors within Peru's overall political settlement. Thus, while the Energy and Mines Commission recommended approval of the bill, the Economy and Finance Commission was not supportive, arguing that it would contravene tax and banking secrecy legislation in Peru, and that the country's Transparency Law is already sufficient.

The bill is no longer under discussion, but is representative of a long-debated issue within the commission: namely whether company participation should be voluntary or mandatory. Companies themselves have a clear position in favour of voluntary participation, as they argue that the voluntary nature of the initiative has been key for its domestic success and that forcing participation would be problematic (Peru Interviews 6, 7, 8, 9). Universities share this rationale, adding that they do not see the point of making mandatory an initiative from a foreign NGO when transparency is already enforced by law in Peru (Peru Interview 4). However, Coa's Bill resonates with the EITI standard approved in Sydney in 2013, in terms of making mandatory the 'payment by payment' disclosure of information in order to be EITI compliant. For the fourth conciliation study, Peru presented its information in disaggregated manner, and "nothing bad happened, though it was a little hard for new companies" (Peru Interview 8).

There have also been attempts to decentralise the EITI in Peru. Here the rationale is that regional governments receive around half of the revenues of extractive

industries, and thus it would make sense to have the reporting at the regional level to secure transparency. On this issue there is a confluence between civil society and the private sector, albeit for different reasons. For civil society, decentralising the EITI would allow transparency to reach further “down” and would help improve local governance, a topic of particular interest for *Grupo Propuesta Ciudadana*. Companies view decentralisation of the EITI as a step towards a discussion of how the money they pay is spent by subnational governments, so the state can be more accountable for development issues in the local space (the calculation being that more accountable subnational government spending of mining and hydrocarbon revenues can only help the legitimacy of resource extraction). Two regions, Moquegua and Piura, have been selected as pilot experiences where decentralisation of the EITI is being tested. Although it has not yet been implemented, the proposal is consistent with new provisions in the revised global EITI standard. The implication is that while this is not directly a boomerang effect (*sensu* Keck and Sikkink, 1998), national initiatives are being facilitated by shifting transnational norms – and at the very least through the advocacy of RWI/NRGI, Peruvian civil society has some voice in discussions that have led to the reframing of these norms, including at the international level. Indeed, members of the commission see decentralisation as a Peruvian contribution to EITI at the global level.

To date, the EITI process in Peru has reflected dynamics in the country’s overall political settlement, one in which the extractive sector has a strong voice. Though EITI is clearly an institutional innovation for the country, it is one that emerged because elites shared some interest in the institutionalisation of transparency as long as the meaning of the idea was restricted to limited tax payment reporting. While some parts of this elite have been more progressive than others (in particular some transnational corporations), there has been an effort to limit what is and is not made transparent by EITI. Civil society – represented through NGOs and some universities – has not, however, given up on expanding EITI’s scope and meaning, including through regional civil society networks.²³ The path to this change has, however, passed more through the renegotiation of transnational norms than any profound change in the domestic political settlement. Indeed, as those norms (i.e. EITI global standards) have become more demanding, they have moved EITI in Peru beyond those practices with which corporate and government elites were initially comfortable.

Colombia

Colombia has a long and important history of resource extraction. Oil’s history goes back to the early 20th century, and one of the country’s still largest fields, La Cira-Infantas, was discovered around 1918 (Echeverry et al., 2008). Mining, especially of coal, has also been an important part of the 20th century economic landscape and

²³ As evidenced by the involvement of Peruvian NGOs (*Propuesta Ciudadana*, DAR and *CooperAcción*), alongside nine other NGOs from eight Latin American countries (including *Foro por Colombia*, as well as *Fundación Jubileo* and CEDLA in Bolivia) in the recent publication advocating inclusion of social and environmental information in the global EITI standard (Alfonso Sierra 2016).

Colombian public finances depend significantly on revenue from hydrocarbons.²⁴ Notwithstanding this history, the authoritarian Uribe government of 2002-10 showed no real interest in EITI, with conversations initiated in each of 2007 and 2009 ultimately going nowhere. It was only in 2012, following the election of the government of Juan Manuel Santos, that Colombia made a commitment to joining the EITI. This announcement, made by President Santos at the 2012 Rio+20 Summit, was then followed by a formal declaration of intent to join in a May 2013 public statement made by the Vice-Minister of Mines and Energy at the sixth International EITI Conference in Sydney, Australia. Since then Colombia has presented itself as an enthusiastic new applicant to EITI membership. For example, in the midst of early stages of preparing its application, it even hosted the second Regional Latin-American EITI Conference in December 2013, and in 2016 the Vice-Minister of Mines and Energy, María Isabel Ulloa, joined the International Board of EITI.

Colombia submitted an application for candidature in August 2014, and was accepted as candidate in October of the same year. In 2014, the process to meet EITI requisites in preparation for candidature included establishing the National Commission (or *Coordinación Tripartita Nacional*, as it is called in Colombia), declaring the 'national EITI champion' (the Vice-Minister of the Ministry of Mines and Energy), setting up a civil society group (the *Grupo Impulsor de la Sociedad Civil – GISC*), and building a national EITI website.²⁵ In addition, two staff members in the Ministry of Mines and Energy were dedicated to working on EITI, and financial support came from the Inter-American Development Bank, World Bank and USAID (Interviews Colombia 1, 7). In December 2015, Colombia published its first report (conciliation study), verified by Ernst and Young, covering payments and receipts for fiscal year 2013 by 18 companies operating in Colombia (six mining and 12 oil companies, including disaggregated reporting by each company). The report states that this covers 96 percent of all payments by the mining and hydrocarbon sectors to the Colombian government, and after reconciliation by Ernst & Young, showed a 0.4 percent gap between recorded payments made by companies, and receipts by the government. This report, which was presented to the International Council in February 2016, and presented publicly in Colombia in March 2016, will be reviewed by the EITI International Council in March 2017, to determine Colombia's eligibility for acceptance as an EITI compliant country.

Similar to the case in Peru, the Santos government appears to have used EITI as one of several mechanisms to signal a change from a regime whose democratic

²⁴ According to the Colombia's first EITI Report, in 2013, mining and hydrocarbons represented 50 percent of all Foreign Direct Investment (FDI), 72 percent of the total value of exports (55 percent from oil and gas, 17 percent from mining), constituted 7.7 percent of Colombia's GDP, and contributed 19 percent of the national government's income (EITI Report Colombia 2015).

²⁵ <http://www.eiti.upme.gov.co/eiti/>.

credentials were questioned to one that is more open, accountable and inclusive.²⁶ Most recently, following her election to the international board of EITI, the Vice-Minister of Mines and Energy, María Isabel Ulloa, was quoted saying, “From [our position on] the international board we are going to show the world how we are generating new spaces for participation, seeking dialogue and the generation of consensus, both at the national and regional levels...” (Colombia EITI website). Earlier signals have included adherence to the Open Government Partnership (OGP) (September 2011) and an expressed desire to join the OECD (January 2011).²⁷ These initiatives are related, inasmuch as the OGP recommends participation in EITI, and OECD membership applications are ostensibly enhanced by demonstrated commitment to transparent government. As a member of the Colombian EITI secretariat commented,

“within this framework [i.e. Santos’s other institutional commitments to transparency] it was logical that we would get involved in EITI because we already met some of its requirements and also because we were signing up to other multilateral initiatives such as the OECD, the Open Government Partnership ...” (Interview Colombia 7).

Another government interviewee commented: “Remember, our country is also interested in joining this great club, the OECD, and it is almost a rule that you have to have transparency in the extractive sector, so you see....” (Interview Colombia 6).

Colombia was sending these signals (which also helped convey an improved investment climate)²⁸ at the same time as it was making other policy commitments that implied a deepening of the extractive economy. The 2010-14 National Development Plan identified mining as the main ‘locomotive’ of national development, and while mining is not as central a pillar in the 2014-18 strategy, resource extraction is still an important policy commitment and source for government funds. In 2011 the government changed legislation and passed a constitutional reform to redistribute extractive industry royalties to help address long-standing regional development disparities (Acto Legislativo 05 of 18 July, 2011). Many commentators also view the peace process initiated in November 2012 (itself a reflection of a change in the political settlement) as inextricably tied to resource extraction, not simply because of the interests of the guerrilla groups with which the government has initiated dialogues (FARC and soon the ELN), but also because extraction is both an important source of the revenues that will be needed to finance peace accords and a significant revenue source for the FARC and its members (see

²⁶ This does not mean that it *is* more open, accountable and inclusive – just that there appears to be a conscious attempt to project such a view.

²⁷ The OECD Secretary-General formally launched Colombia’s accession process on 25 October, 2013.

²⁸ Colombia’s investment grade was raised by Standard and Poor’s in 2013 (<http://www.bloomberg.com/news/articles/2013-04-24/colombia-rating-raised-by-s-p-on-economic-expansion-peace-talks>) and the country highlighted as “one of Latin America’s investment hotspots” in a special report by the *Financial Times* in 2013 (<http://www.ft.com/reports/new-colombia-2013>).

Hernández and González 2016).²⁹ In each case, then, resource extraction appears to be increasingly tied to highly strategic social policy commitments from which the government will find it difficult to step back.

The push to establish EITI in Colombia has been led by the Ministry of Mines and Energy, coupled with pressure from the president. Other government members of the national commission include the Tax and Customs Office (*Dirección de Impuestos y Aduanas Nacionales – DIAN*) which has responsibility for managing tax revenue, and the National Planning Department (*Departamento Nacional de Planeación*), with responsibility for managing distribution of royalties. In general – and in some contrast with the case of Peru – there is a range of government actors (including the executive) who seem to share the same commitment to EITI, which has helped move the process forward.³⁰

At the same time, there has been relatively broad commitment to EITI from civil society organisations, some of whom had already been working on the Open Government Partnership. “Under the national plan of action for OGP, we placed the topic of transparency in extractive industries as an action point, and from there the idea of joining EITI grew” (Interview Colombia 1). The Ministry of Mines and Energy invited the participation of several NGOs and a university, which were already working on extractives governance issues and had been advocating to bring EITI to Colombia. These organisations were *Foro Nacional por Colombia* (with close links to RWI/NRGI and *Grupo Propuesta Ciudadana* in Peru), *Transparencia por Colombia* (part of Transparency International), *Fundación Avina* (part of the Latin America-wide Avina network), and the *Universidad Externado* (also with ties to NRGI). Together they created the *Grupo Impulsor de la Sociedad Civil*, which convened some 70 organisations with the aim of generating awareness and creating a vehicle through which civil society representatives on the national commission could be elected and supported. This led, in 2013, to the creation of the more formalized Civil Society Platform for Transparency in Extractive Industries (*Mesa de Sociedad Civil para la Transparencia en las Industrias Extractivas*), composed of some 30 civil society and academic groups from 11 regions.³¹

CSIR-Sucre, the Committee for Monitoring Royalties Investments for the Department of Sucre (*Comité para el Seguimiento de la Inversión de Regalía’s – Sucre*), a regional civil society organisation created to monitor investment of royalties at the subnational level, was initially elected alongside *Transparencia por Colombia* and the *Universidad Externado*. In the end, however, like CBC in Peru, where Lima-based organisations prevailed in the civil society group, CSIR-Sucre had to resign because

²⁹ See also: <https://www.opensocietyfoundations.org/voices/colombia-s-peace-process-needs-accountable-extractives-industry>

³⁰ That said, there are sectors within the government that seem more sceptical about engaging with EITI, and apparently not viewing it as “something that would generate value added for the government” (Interview Colombia 1).

³¹ See: <http://www.mesatransparenciaextractivas.org/>

of the costs of participating in Bogotá-based meetings (Interview Colombia 11). Ultimately *Foro*, *Transparencia* and the *Externado* were elected as the civil society members of the commission, with the somewhat more business-oriented *Avina* not being chosen (in an interesting parallel to the selection of *Propuesta Ciudadana* rather than *Ciudadanos al Día*). Nonetheless, the establishment of the Civil Society Platform mentioned above, enabled broader, and importantly, regional input into the national plan of action (six departmental CSIR are members) (Interview Colombia 11). These inputs were gathered during seven meetings with civil society organisations in Bogotá and ten regional workshops in seven locations outside Bogotá (Montería, Villavicencio, Barranquilla, Valledupar, Neiva, Sincelejo and Medellín (Civil Society Platform website; Interview Colombia 11). This broader base marks a difference with Peru's civil society participation in the national EITI process.

From the private sector, the three representatives on the national commission are the national petroleum company, Ecopetrol (a public stock-holding corporation since 2003), the Colombian association of oil producers (*Asociación Colombiana de Petróleo – ACP*), and the large-scale mining association (*Asociación Colombiana de Minería*). Each of these associations has been present from the first announcement of commitment to EITI in Sydney (Interview Colombia 1). These three organisations were not elected, but directly invited by the Ministry of Mines and Energy to act as representatives on the national commission.³²

Other organisations supporting the national commission have included international and bilateral aid organisations with specific experience in EITI or related issues, existing relationships with the Colombian mining sector, and resources with which they are able to fund national EITI activities. These include the World Bank, which also funded a 2012 scoping study for EITI in Colombia. The Inter-American Development Bank (IDB) was also a supporter around information management for the EITI application, based on its prior work with the National Planning Department on use of royalties.³³ The US Agency for International Development (USAID) provided technical and methodological support for the development of the National EITI Action Plan in Colombia, via a private contractor called Management System International (MSI, manager of the Colombian Royalties Management Programme) and with the support of the US embassy in Colombia. This support is also, in some sense, soft pressure, and indeed the G8 called on Colombia to consider a 'fast-track' to EITI candidature, with particular support from the European Union. In this sense, engaging EITI "is not just a domestic decision. We have had diplomatic contacts from different countries, donor organisations that manifest the importance of participating in this initiative" (Interview Colombia 2). A presentation by the Ministry of Mines and

³² <http://www.eiti.upme.gov.co/eiti/>

³³ This includes support for the online tool *Mapa Regalías* (<http://maparegalias.sgr.gov.co>) which aims to make visible and accessible to any citizen or entity how and where public money is being invested. This has been described as "a tool that allows us to see, *as if through a glass*, all that happens in the regions with this money, which in the recent past moved in the midst of corruption scandals" (*El Tiempo* 2015, emphasis added).

Energy on EITI from 2013 listed eight reasons in response to the question “Why EITI?”, beginning with:

“1. G8 relations. 2. EITI is a reference for, and ‘adds points’ for OECD and OGP (USA). 3. World Bank, European Union, IDB. 4. Industry thinks EITI can improve its reputation. 5. Organs of control demand transparency. 6. Civil society demands information and needs capacities for debate. 7. Government needs to articulate itself with, and count on unified information. 8. Accountability + corporate responsibility + social control” (translated from the original Spanish).

Transnational civil society support and/or pressure has also been important. The Open Society-supported Revenue Watch Institute (now NRGI), has been particularly influential – in particular in the person of the same regional representative, who has supported the EITI process in Peru. NRGI has provided sustained support to *Foro* for independent monitoring, analysis and advocacy and to the *Universidad Externado* for training. That both *Foro* and the *Externado* became part of CSO representation on EITI has given NRGI particular influence. RWI/NRGI provided funding for background research and publications on the governance of extractives and EITI, as well as for a short online diploma course on extractive industries.³⁴ Transparency International has also advocated for Colombia’s adherence to EITI, both through the direct involvements of Transparency for Colombia, Technical Secretary for the broader civil society platform (*Mesa de Sociedad Civil para la Transparencia en la Industria Extractiva*) and at the international level. Indeed, Huguette Labelle, chair of the board of directors of Transparency International, had a personal meeting with President Santos in February 2012, in which she asked President Santos about EITI, which some suggest had a role in fostering Colombia’s presidential commitment to the Initiative (Interview Colombia 2; Transparency International website). Importantly, groups such as Transparency and RWI/NRGI are not just materially interested advocates in this process – they are also highly visible international norm entrepreneurs in the agendas surrounding ‘transparency’. More generally, Colombian civil society organisations have used different transnational exchanges (some facilitated by the EITI secretariat, some by their own RWI/NRGI and PWYP networks in Latin America) to bring other experiences to bear on discussions of EITI implementation, including around incorporation of environmental and subnational dimensions within the EITI standard in Colombia.

While the composition of a national commission is not itself a direct indicator of a national political settlement favouring the emergence of EITI, the scenario outlined above is suggestive of a certain convergence among supportive national political forces, transnational actors and ideational influences. Certainly the correlation of interest in EITI with the election of a new administration that has been at odds with

³⁴ Importantly, RWI/NRGI has managed, with the Catholic University of Peru, a “Latin America Regional Knowledge Hub on Extractive Industries” since 2009.

the prior regime suggests that a shift in the political settlement in Colombia has occurred, that key actors within this settlement have been interested in changing Colombia's international alignments, and that this has some relation to EITI's increased visibility in the country.

The interest in EITI is not, however, the same as a fundamental change in extractives governance in Colombia. Certainly for the case of the industry and the government, the emphasis seems to be to institutionalise an idea of transparency in ways that meet more restricted interests. As the Vice-Minister of Mines and Energy stated, following Colombia's election to the EITI international board,

“We are facing a key and important sector for both the national economy and extractive regions, for which establishing a common and verified information base is fundamental. EITI is an international standard that does not seek to pronounce value judgements on the amount or nature of payments when these [conciliation] reports are presented. What is clear is that EITI gives us a common frame of reference so that dialogue can advance, to enable a discussion based on true and verified information, in such a way that better public policy decisions can be made” (Colombia EITI website).

Perhaps above all for the mining sector, there is an interest in using EITI to demonstrate to Colombian society the scale of the sector's fiscal contribution (particularly by the large-scale mining sector) as a way of securing legitimacy in the face of escalating, and critical, public debate on mining. In other words, the EITI is seen as providing reputational and political benefits domestically, as well as enhancing the legitimacy of the extractive regime internationally. A representative of the mining sector commented, in a similar vein to the Peru case:

“together with the oil sector, we contribute some 30 percent of taxes paid to the national government, and sub-nationally we also make important payments. So it is important to make these payments visible, to know just how much the private extractive sector is contributing as well as how these tax, royalty and capital resources are being invested. So, in the long term, the theme here is one of transparency; we approach it as a topic of information transparency.” (Interview Colombia 10)

For the hydrocarbon sector the motivations appear similar. In the words of a representative of the national association:

“I reckon there are three reasons why hydrocarbon companies are interested in EITI. There are multinational companies who already know EITI and have been involved in the Initiative in other countries, so for them to participate in Colombia is just one more justification that they are meeting the standard. I think there is a second group for whom the standard is 'low hanging fruit' ... because the sector pays very substantial amounts to the state in royalties,

taxes and other fees. So to be able to show independently that the sector is paying these resources, and that it be a third party rather than the sector itself that is saying this, well I think that the industry welcomes the initiatives. And third is the interest in transparency in the investment of these resources ... for even if the sector is paying important royalties, they are not being used that efficiently and even though the sector has paid large amounts of royalties, in oil-producing regions we have not seen this be converted into development. So a large part of the third and perhaps most important reason motivating companies (though perhaps not for the state) to engage in the initiative is to be able to generate an informed and technical discussion on transparency in how these resources are being used. That way, the criticism – if that is what there should be – would not be that companies have not paid, or are not meeting their legal and contractual commitments, but rather that if there is a problem ... it is mostly one of how resources are being used by those who really should be held accountable: mayors, governors and the national government” (Interview Colombia 9).

The mining representative expressed much the same motivation:

“mineral-producing regions don’t see things positively, so for us it is important that the [EITI] report consolidate information not just on national payments, but also subsequently on subnational payments, because this will foster transparency regarding payments and the investment of resources” (Interview Colombia 10).

These comments suggest that, similar to the case of Peru, the sector itself sees transparency and public debate as useful for its own legitimacy, in a context in which recent efforts on the part of both government and industry to grow the sector have generated conflict and public criticism and more generally brought extractives under greater public scrutiny:

“In Colombia, the topic of extractives has resonated in public debate in the past, but not like in the last two or three years. [There has been] a rapid growth of the sector in economic terms, and [this] has generated problems, particularly conflicts of a diverse nature” (Interview Colombia 1).

While the sort of debate they are looking for might be different, a number of civil society organisations have also been motivated by the idea that EITI could foster public discussion in a context of conflict and disappointing development outcomes. Indeed, it may also be that the government saw EITI as a way to help diminish conflict. One NGO speculated that committing to join the EITI “is a way of saying ‘look, here is an effort from the government in terms of transparency, in terms of payments and other things” (Interview Colombia 1). The government may also have seen transparency as functional to the peace process, insofar as the National

Liberation Army (ELN), one of the armed groups active in Colombia's conflict, has long accused it of misuse of royalties (Interview Colombia 2).

At the same time, and again in a similar vein to Peru, private sector actors in particular have sought to restrict the meaning of transparency to reporting on taxes and royalties, while civil society organisations have sought to broaden it to include environmental licensing, subnational payments and use of resources, and other company expenditures, such as that on CSR (see, for instance, Alfonso Sierra, 2016).³⁵ While the sector, for reasons noted above, shares the interest in subnational reporting on how government uses royalty and tax payments, they resist any other widening of "the standard". A mining representative commented that:

"there has been a bit of difficulty in the working group because some actors have wanted to include payments that are not within the standard ... social responsibility spending, environmental spending and other themes that are not part of EITI's standard ... which is why we say we should act according to the standard"³⁶ (Interview Colombia 10).

The view from the hydrocarbon association is similar:

"the private sector's position has been very clear in saying that, beyond the basic EITI standard, which is already a great step forward that we want to implement in Colombia, we do not believe that we should include other elements that distract us from the goal of getting this initiative up and running.

"We think that income based on what is textually revenue should be reported ... we want what could be called 'the basic EITI' and not what some civil society organisations want: a broader reporting of items that, though doubtless useful for society to know about, we think lie outside EITI" (Interview Colombia 9).

And, as in Peru, the sector worries about information confidentiality: "the private sector is worried because so far there has been no progress in guaranteeing confidentiality in the information that we are required to report" (Interview Colombia 9).

Based on the recommendation of the EITI scoping study in 2012 (which the state

³⁵ This report was produced by the Latin American Network on Extractive Industries (*Red Latinoamericana sobre las Industrias Extractivas – RLIE*), with support from NRGi and Publish What You Pay. RLIE, itself supported by NRGi, is composed of organisations in eight Latin American countries, including civil society organisations involved with EITI processes in Colombia and Peru, and seeks to align their national and transnational work to push the EITI standard to include social and environmental payments (Alfonso Sierra 2016).

³⁶ Nonetheless, although it was not included in the EITI Plan of Action, it was agreed and recorded in the public minutes that there was consensus among the commission to further the issue.

was initially reticent to make public, throwing into some question its overall commitment to transparency) (Interview Colombia C11), the stated goal of government was to begin with a basic standard adapted to Colombia, and then to progressively broaden this standard. Civil society actors worried about how far the government is actually committed to this idea, however, and pushed for the inclusion of broader reporting requirements more quickly. They expected some tensions as they try to shape the process to something more than the “basic” standard (Interview Colombia 4), but were successful in enabling an agreement among the tripartite committee (national commission) to at least finance a study of how they might include environmental payments in the second EITI report.

While EITI in Colombia is at a far earlier stage than in Peru, the experience bears notable similarities. A shift in the overall political settlement, reflected in an electoral change of government (which also led to the initiation of the peace process), led to greater interest in demonstrating transparency on a global stage. EITI was seen as an important mechanism for signalling such transparency. Extractive enterprises appear to have come to a similar view – that it served their purposes to be transparent around their tax payments and to force greater government transparency on how these payments are used. However, companies and government alike have sought to contain the meanings apportioned to transparency in ways that would make it functional to a broadly pro-business, neoliberal approach to resource extraction and would help enhance Colombia’s investment attractiveness, as well as supporting the broader political project of neutralising the conflict-ridden discussion on extractives. For their part, civil society organisations – in both their national and transnational forms – have pushed for transparency in other realms that would give society additional tools and information with which to hold the extractive sector to account, viewing EITI as “part of a wider debate about extractive industries in Colombia” (Interview Colombia 2). A difference with Peru has been involvement by a broader group behind the three civil society representatives in the national commission, also including regional organisations and dissemination workshops (Interview Colombia 11).³⁷ Finally, the particular Colombian context of civil war and peace negotiations further complicates the way in which institutions for transparency are emerging, on the one hand placing additional pressure on government to create such institutions, while on the other hand contributing to an overall political environment of distrust and caution that complicates the potential for debate across state, business and civil society boundaries (Hernández and González 2016).³⁸

³⁷ “... lo que se ve son las innovaciones de parte de la sociedad civil – como la Mesa Amplia se han articulado y el trabajo en las regiones (Sucre y Santander). Se hizo 2 talleres con periodistas, 2 reuniones nacionales y 4 regionales, en alianza entre Foro y la Secretaría Técnica. Conociendo la experiencia de otros países, ej. Peru – tiene un grupo de la sociedad civil, muy cerrado el proceso. En Colombia la experiencia es diferente. Hay una Mesa Amplia de 18 organizaciones de 11 regiones, es un proceso transparente y abierto.” (Interview Colombia 11).

³⁸ See <https://www.opensocietyfoundations.org/voices/colombia-s-peace-process-needs-accountable-extractives-industry>

Nonetheless, the different groups have been able to sit at the table and reach consensus on a plan of action; each group has recognised some value in this space for dialogue, and so far no one group has been able to impose the meanings it gives to transparency.

Bolivia

Bolivia is neither a member of EITI nor even a candidate country. Though there was an attempt to promote the initiative in 2008, the country has shown little subsequent interest. The provenance of this attempt originated from transnational norm entrepreneurs more than from any change within the national settlement. Revenue Watch Institute and the then Vice-Minister (later Minister) of Transparency, Nardi Suxo, organised several events and conversations around the idea of EITI. Suxo was at one point named EITI coordinator for Bolivia, and there was one senior-level EITI visit to La Paz. Ultimately, though, these initiatives collapsed. A number of interviewees argued that while President Morales did express some interest in developing a mechanism to promote transparency (not least given serious problems of corruption that had surrounded the state-owned hydrocarbon industry towards the end of the 2000s), EITI itself was too closely identified with the World Bank and the imperial powers for it to be politically viable within the socialist and resource nationalist rhetoric of the MAS government. It was also the case that civil society organisations working on extractives and fiscal questions saw other ways of promoting transparency without engaging with EITI.

Lack of government interest in EITI did not imply the absence of state-led initiatives on transparency. Indeed, the country had approved a Transparency Law in 2004 and created a Vice-Ministry of Transparency in 2006, which it then converted into a Ministry of Transparency and Fight against Corruption in 2009. When in 2006 the hydrocarbon sector was nationalised and the state-owned *Yacimientos Petrolíferos Fiscales Bolivianos* (YPFB) became the sole company in charge of commercialisation of hydrocarbons in the country, the new administration introduced the practice of uploading the contracts of operation that it was signing with third parties for the extraction of hydrocarbons. While this practice was later halted, the Ministry of Hydrocarbons continued to produce a trimonthly report with information on gas production, prices, taxes, royalties and payments by YPFB to the treasury.

Civil society actors have also attempted to foster increased transparency. All hydrocarbon contracts are approved by both chambers of the Plurinational Assembly, and an NGO, *Fundación Jubileo*, took it upon itself to publish these on its website. It can, however, only publish the information that the government chooses to release – and as a consequence there is no information on actual production by the companies that extract oil and gas under contract to YPFB. While the constitution of 2009 mandates that the National Hydrocarbons Agency should be auditing the sector, this has so far not been the case, and control over auditing appears to be concentrated in YPFB, which shows limited inclination to be transparent, even vis-à-vis other parts of

government. The reports produced by the Ministry of Hydrocarbons only present aggregated income for YPFB, so it is impossible to follow levels of production on a project-by-project basis. With some irony, this is similar to the situation in Peru, where companies' initial resistance to company-by-company reporting also limited society's ability to monitor and do advocacy around individual projects.

Around 2008, *Fundación Jubileo*, working in alliance with the Ministry of Hydrocarbons, developed an information system on royalties in the hydrocarbon sector which was created and uploaded to the website of the ministry. The system gave information from 2002 to 2011, showing the payments that extractive companies made to local and national governments. The information for the period 2002-06 shows payments by a range of companies, but following 2006 the information related solely to the state-owned YPFB, as nationalisation had rendered it the only company paying royalties to the state. In 2012, however, a change of minister led to the system being removed from the website. *Fundación Jubileo* also developed a system with spatial information on extractive industry contracts. The goal was, again, to upload both this information and the contracts themselves to the website of the Ministry of Hydrocarbons. After initial coordination, however, the ministry decided not to proceed and *Fundación Jubileo* decided to post it on its own website (Interviews Bolivia 1 and 2).

Efforts to introduce transparency in Bolivia's hydrocarbon sector have been both patchy and largely driven by a political settlement in which the dominant political party, MAS, is hegemonic. Though initially open to some transparency, over time the government has increasingly limited information availability and although the constitution is explicit in addressing transparency in the hydrocarbon industry, the government has not acted on these provisions. Meanwhile the Ministry of Transparency and Fight against Corruption is not mandated to address the extractive sector. Arguably the MAS government has an interest in controlling information on revenues from hydrocarbons, given that the sector is the principal source of finance for the government as a whole. At the same time, YPFB might itself be a separate source of resistance to greater transparency – indeed, there is widespread perception that the company is more powerful than other ministries, including the Ministries of Hydrocarbons and Transparency. While civil society organisations such as *Fundación Jubileo* (Interviews Bolivia 1 and 2) and *CEDLA* have sought to advance transparency, the government has resisted these efforts or sought to focus transparency on initiatives that do not address the most significant flows of money in the sector. The absence of a legislated transnational norm such as EITI means that the politics surrounding transparency in the extractive sector are far more driven by the national political settlement than in the other two cases. Transnational influences on transparency discussions are far more muted, and while national civil society can try to use 'boomerang' type strategies in their attempts to discipline the sector, these are far less effective and can indeed be counterproductive insofar as they encourage the government to cast these civil society organisations as working in coordination with imperial interests.

How these national politics drive institutional emergence varies, however, by sector. While in hydrocarbons, power resides entirely within the state – primarily in YPF and the executive – this is not the case in the mining sector. The politics of Bolivian mining are dominated by a growing and increasingly powerful cooperative sector that is not even remotely governed by transparency mechanisms (Humphreys Bebbington and Grisi Huber, 2016, forthcoming). Contracts, if they exist, are not public and there is no official information on how many cooperatives operate in the country. With the 2009 constitution, these cooperatives should also have been migrated from a concession system to a contract system in which the state enterprise COMIBOL would play the role that YPF plays for hydrocarbons, contracting with cooperatives and then marketing all minerals produced. This has not happened and, as a result, very little is known about the sector, its contracts, its tax and royalty payments, or its labour conditions. Indeed, it is probably the case that the MAS government would be unable to introduce transparency, even if it wished to. Certainly there is no way in which the interests of cooperative miners are aligned with notions of transparency, and politically Morales' interest is to keep the cooperatives on his side. The presence of EITI in Bolivia would make no difference to this situation. Again, the domestic political settlement in the mining sector determines the institutions that have emerged to govern it, and while this settlement reflects the immense holding power of locally organised constituencies (i.e. the cooperative miners), their ideas bear no resemblance to the notions of progressive politics implied by non-governmental action, the EITI or orthodox concepts of social inclusion.

E. Conclusions

In this paper we have analysed the factors that influence how EITI is taken up at a country level. Theoretically we have done this through engaging with literatures on political settlements and the drivers of institutional change, while our empirical focus has been on Peru, Colombia and Bolivia. In each country we find that the EITI process has been contested. At one extreme, the process has been rejected outright by the host government, while in the other two cases contestation has hinged around efforts by different parties to expand or limit the scope of EITI. These contestations have involved both national and transnational actors from each of civil society, the state and the corporate private sector. Much of this contestation has been over the meaning that should be applied to the idea of transparency in the national extractive industry sector.

The first conclusion from these cases is that the rollout of EITI has been primarily determined by the overall national political settlement: or, more precisely, the nature of the dominant coalition. In each country important changes in the political regime manifested by electoral transitions (Peru, 2000; Bolivia, 2006; Colombia, 2010) changed the political space in which transparency could be discussed in ways that determined how EITI 'arrived' in each of them. In Bolivia, neither the ideology nor the key constituents of the post-2005/06 national settlement had sufficient desire to associate with an initiative whose provenance was deemed imperial and colonial.

Interests were probably at stake here also, as suggested by the recent history of corruption within the extractives sector involving persons close to the executive office: some key actors would have had limited interest in greater public disclosure of tax payments and usage. Conversely, in Colombia and Peru, while electoral changes post-2010 and 2000 respectively did not lead to any fundamental change in the commitment to a model of accumulation based on the expansion of extractive industries, they did imply a change in the composition of dominant political elites and overall balance of power among different elite factions. This shift opened space for governance innovations, creating new possibilities for the discussion of EITI and the participation of both transnational and domestic civil society within this discussion. This happened because Colombian and Peruvian political elites had become interested in projecting an international image of their countries as democratic, transparent and willing to dialogue with civil society. In Peru, to project this image was part of marking a transition from a two-decade period characterised by some mix of economic stagnation, authoritarian government and internal violence. In Colombia's case, this was because national political elites were interested in acceding to the OECD and in conveying the sense that the period of the worst political violence was now in the past – that Colombia was at last emerging as a modern, rights-respecting, market-friendly democracy worthy of acceptance into global elite clubs. EITI was functional to each of these goals. It was probably also the case that, in Colombia, adherence to EITI was seen as one of several ways of responding to increasingly strong anti-mining movements. Though the interests were similar in the two cases, Colombia came to EITI later than Peru, largely because its political transition and its mining boom also came later (again, showing how domestic political settlements affect institutional transitions).

The contrast across the three countries also raises the question of why neoliberal countries (Peru, Colombia) have made efforts to increase transparency, while resource nationalist, self-styled post-neoliberal regimes have not – and have arguably reduced overall levels of transparency around (and beyond) extractives. This is the context presented by the Bolivian experience, though it would also be the case for Ecuador, Venezuela or even Brazil. Indeed, the Brazilian government has been opposed to EITI in different transnational forums, just as it (like Ecuador) has also sought to weaken other international standard-setting bodies, such as the Inter American Commission on Human Rights. These patterns begin to suggest that Bolivia's resistance to EITI may not only have been due to anti-imperial ideology, but may also reflect interests of elites within political settlements characterised by dominant parties and dominant leaders. Conversely, the level of trade and geopolitical integration sought by neoliberal regimes (reflected in desires to join the OECD, free-trade agreements and other such clubs) may serve as a disciplining mechanism that protects certain forms and levels of transparency that other actors (e.g. civil society groups) are then able to exploit and potentially expand. We develop this idea below.

A second conclusion is that the support of EITI by transnational extractive industry companies has also been an important factor favouring the take-up of EITI in both Peru and Colombia. These companies had little to lose from EITI, because in many cases their corporate standards already committed them to some form of transparency in tax reporting, and they sought (and seek) to reap legitimacy gains from participating in the process. In this instance, while aligning with EITI principles would imply more transaction costs for the companies, it was not seen as a threat, and indeed the calculation was that it could be a benefit, assisting in relations with shareholders and society.

However, given that the motivations of both national political and transnational elites have been largely interest-based, it is not surprising that having embraced transparency in the form of EITI, they also seek to constrain its meaning. They have therefore struggled to limit transparency to a question of tax reporting. A third finding is that this effort to constrain the meaning of transparency has been contested by a mix of transnational and domestic actors (themselves with links to transnational civil society). These actors in Peru and Colombia have worked at both national and transnational scales to change EITI standards so that other social, environmental and licensing practices become subject to the same transparency that characterises reporting on tax payments. In this, they have made steady progress, in their own countries, in each other's country (as in the case of Peruvian civil society influence in the Colombian EITI process) and transnationally. By securing rule changes at a global level in EITI they have been able to deliver changes in national EITI processes. The implication of these observations is that struggles over the meaning apportioned to ideas that underlie the creation of new institutions are important to the final forms taken by those institutions.

A fourth and related finding is that these ideas can also matter as disciplining mechanisms. Thus, even if national political and economic elites may feel uncomfortable with some of the changes in national EITI processes that are likely to derive from recent changes in the global standards, it is probably too late for them to withdraw from EITI because too many other benefits are at stake. Some of these benefits, and some of the motivations for being involved in EITI, may have nothing specifically to do with extractives (e.g. OECD membership), but are of such significance for these elites that they are unlikely to leave EITI, even if it became more demanding, because to do so would risk their standing vis-à-vis the OECD or the OGP. While this effect may not amount to a transnational idea changing a national settlement, it does suggest that as such ideas become institutionalised in the form of new norms they can begin to regulate aspects of that settlement.

Fifth is the sense across these cases that EITI has rolled out not because all actors share the same 'idea' of what EITI should be and why it is desirable. Indeed, there are at best few truly shared objectives among the different actors involved. Rather, there are different sets of interests that become aligned with EITI. Put otherwise, each actor can, at least to some degree, defend or pursue their interests through EITI

and can do so while also agreeing among themselves on at least a basic shared set of principles and rules. Thus governments may see in EITI a signalling mechanism that serves other political goals; companies see it as a means of securing legitimacy and licence to operate, as well as of giving them more space to demand transparency of government and civil society. Meanwhile NGOs' interests hinge around the pursuit of democracy deepening and empowerment, as well increasing their own particular organisational visibility, and EITI serves as a vehicle for these objectives. In this rendering, the idea of transparency becomes institutionalised because of an alignment of interests, but the idea also has sufficient moral and analytical force of its own that it then serves to stabilise and discipline this alignment.

Finally, a sixth conclusion is that although EITI as a transnational mechanism, and transparency as an internationally legitimated idea, have not changed national political settlements, they have helped gain some political space for national actors seeking to promote accountability, participation and democratisation, at least in the cases of Peru and Colombia. It is possible that they had these effects partly because these countries were already in the process of opening up, but it also seems reasonable to conclude that EITI has contributed to that process of opening, at least in the sphere of extractive industry governance (which is significant, given the weight of the sector in these national economies). By supplying off-the-shelf principles, procedures and formalised practices, EITI has provided a mechanism for quickly institutionalising the basic elements of a transparency agenda that domestic actors have then been able to use as a vehicle for efforts to further deepen that agenda. While elites have tried to use an information-based approach to 'transparency' as a way of diverting attention from more politically sensitive issues surrounding extractives, civil society actors have been able to use their presence in the formal EITI process to contest this and argue for attention to additional issues. This may not affect the overall settlement in the short term, but it has the potential to slowly institutionalise norms in ways that will influence corporate and state fiscal behaviour in the medium to long term. The value of EITI is also suggested by the contrast with Bolivia, where the absence of EITI is coupled with a chronic lack of transparency in certain critical aspects of extractives governance and a general lack of political space to contest this.

In summary, the politics surrounding EITI endorses the argument that national political settlements are fundamentally important in driving domestic institutional forms. However, these same politics also show that when these institutional forms have a transnational component that itself is grounded in ideas that circulate as internationally legitimate, then the institutions escape the complete control of dominant domestic coalitions. Transnational actors and the transnational networks that link national and external actors in a shared politics of scale, while seeking to foster transparency, also end up having causal power in the definition of national institutions for the regulation of the extractive sector.

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