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Peter Eigen

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International Corruption

Organized Civil Society for Better Global Governance

Peter Eigen

Transparency International

The theme of this issue, and the conference with which it is connected, is most timely. Corruption is the most talked about global problem around the world. Grand corruption in the global economy, petty corruption at home and abroad, corruption in politics, economic development, science, media, medicine, international and national corruption: the cancer of corruption seems to be everywhere and unending.

My focus here is on international corruption because it is particularly pernicious. It also lends itself to illustrating the failure of global governance. It is both a consequence of failed global governance and one of the contributing factors to this failure. At the same time, international corruption is an area where a new paradigm of global governance is clearly needed.

I see a constructive role for organized civil society in tackling poor governance and international corruption where the traditional actors of governance—national governments and their intergovernmental institutions—have proved to be helpless. I am speaking of civil society organizations (CSOs) such as Transparency International (TI), which through their interaction with other actors of governance—mainly governments and business—have managed to make a tangible difference in the global fight against corruption. I founded TI in 1993 in Berlin, and will speak from my practical experiences as longtime chair of TI and founding chair of the Extractive Industries Transparency Initiative (EITI).

Through the empowerment of civil society organizations, it is my hope that similar outcomes can be achieved in many other areas of failing governance, whether they be human rights violations, the destruction of the environment, or the violation of fair labor standards.

Failing Global Governance

The present paradigm of global governance is based on the key role of sovereign nation-states and their governments. This near exclusive reliance on nation-states is outdated. The globalization of the economy has surpassed

the capacity of national governments to regulate the economy. National governments simply do not have the global reach that would be required to govern the global economy. I would point to at least three dimensions of asymmetry that make it nearly impossible for national governments to establish a coherent system of governance:

- Limited geographical reach of national governments: while business is operating with few binding constraints in a world-wide market, government authority is largely limited to their respective territories.
- Time-bound government terms: governments, in particular those that are democratic, have to serve their voters' interests in a relatively short time period, while most of the global issues—such as climate change—have to be addressed with a long-term approach.
- Government constituencies: the constituencies of national governments are often scattered and diverse, with many different interests—and therefore demands on their governments—other than global issues.

The nation-state paradigm is as a result only partly functional in a globalized economy. This is also largely true for their intergovernmental organizations (including the World Bank, the International Monetary Fund, and United Nations agencies), where member nations often pursue their national agendas. Of course, it is legitimate and to be expected that these organizations carry out the wishes of their member nations, but this too often happens to be the lowest common denominator.

Hence, there is no coherent, overarching authority that could install what we in Germany proudly call a *Soziale Marktwirtschaft*, a social market economy, where good governance can protect the functioning of the market (against corruption and the abuse of private power, for example) or even correct the outcome of the market forces where they are socially unacceptable. At present the primacy of politics over markets has been lost.

We need a new paradigm of global governance. The outcome of the present system is marked by governance failure—at the global, regional, and local levels.

Can the world accept an outcome that condemns a billion people to absolute poverty? A billion people without reasonable access to drinking water? Twice that number of people living without proper sanitation? Year after year, 6.6 million children die before the age of five, mainly because

of banal, poverty-related diseases (UNDP HDR 2013). Can we accept the conflicts, violence, and terror arising from failing governance in so many regions and countries, including eastern Democratic Republic of Congo, Sierra Leone, Sudan, and Syria? Millions of innocent people die because of failing governance; hundreds of millions are refugees.

The record is clear; our present global governance functions badly. In fact, the people on the streets of Madrid, Cairo, Athens, Tunis, and New York have told us: we need change.

Alternative Governance Scenarios

It has sometimes been suggested that the private sector, especially global companies, should take on a stronger role for better global governance. This is because—provided they can be relied on to apply “corporate social responsibility”—they have the global reach, the global strategies, the long-term perspective, and the invisible hand of the “market” as reliable referee (although according to Amartya Sen, it is an invisible referee “nowhere to be seen” when needed).

The proponents of this alternative have grown quieter in recent years as an unfettered global marketplace allowed many bankers and other global business people to bring untold misery to the world. And indeed, who would give the leaders of these enterprises the skills, the mandate, even the incentives and interest to pursue the global public good? They are themselves subject to the short-term imperatives of the financial markets. They themselves need an enabling environment to implement corporate social responsibility; they themselves need good global governance.

A decisive governance role for the private sector cannot then be the answer. But I will argue later that there is indeed a broad role for business in good global governance. However, it must be embedded in an enabling environment for responsible corporate conduct. Such an environment must be shaped by society based on the primacy of politics over the market.

My positive message is that there may well be a powerful new actor: organized civil society. The ability and role of civil society, particularly organized civil society, in shaping global governance is increasingly recognized—not by replacing legitimate governments and their institutions but by complementing them in a triangular interaction of government, business, and civil society organizations.

International corruption is an excellent issue to illustrate the constructive impact of CSOs. Governments of the most powerful nations were helpless

against the dramatic growth of international corruption until the end of the 1990s, as were so many of the biggest enterprises in the world. How did CSOs make a difference?

Corruption: The Cause and Consequence of Failed Governance

International corruption is endemic. The World Bank estimated that in 2001–2002, the equivalent of \$1 trillion per year was paid in bribes worldwide, about 3 percent of world GDP (World Bank 2013). This is a huge amount, but the real damage is much more severe. For one thing, this estimate refers to the relatively narrow definition of the World Bank focusing on the public sector: “Corruption is the abuse of public office for private (economic) gain,” which leaves out the vast areas of (1) corrupt practices among private sector actors and (2) corruption focused on political power rather than economic gain. The definition of TI includes these often overlapping types of corruption: “Corruption is the abuse of entrusted power for private gain”; hence a much wider area of corruption is at stake.

But more important is that the amounts paid as bribes are only the tip of the iceberg of the damage caused. Corruption perverts economic management, thereby causing untold misery, conflict, violence, and environmental destruction in the world. Extensive research has been conducted about the costs of corruption; the World Bank declared them in 2011 as “among the greatest obstacles to economic and social development” (World Bank 2011). But this was after the World Bank had turned from Saul to Paul.

When, as director of the regional office for East Africa of the World Bank, I criticized rampant corruption in Africa in 1990, I was told to shut up. The legal department pointed to the charter of the World Bank, which made it illegal for the bank to meddle in the internal affairs of our partner countries; only “economic considerations” were allowed. The issue of corruption was in their opinion a strictly internal matter and, therefore, off limits in our strategies.

Of course, we had a fiduciary responsibility to protect the bank’s own projects and financial resources against misuse and waste. But even in the otherwise very detailed and rigorous procurement guidelines—which had been part of my responsibilities in an earlier stage of my World Bank career—the sanctions against corruption were couched in exceedingly soft terms, requiring a binding conviction for corruption in a local court before any of the customary sanctions against misprocurement were permitted.

Why did the World Bank at that time take this position? Because in most of its member countries foreign bribery was allowed. With the honorable exception of the United States, which had in 1977 introduced under

President Jimmy Carter the Foreign Corrupt Practices Act (FCPA), making it a crime to bribe abroad, most other countries, in particular the rich Organization for Economic Cooperation and Development (OECD) member countries, not only allowed their nationals to bribe abroad but also supported them with generous tax deductibility for bribes paid abroad. They also turned a blind eye to corruption under other support schemes, such as export financing and insurance.

The general consensus was that the globalized economy is largely without governance, and therefore companies willing and able to obtain business under this “free-for-all” system deserved rewards for their effective operations rather than criticism and obstacles, based on value systems that were far from universal. Even the more scrupulous countries and companies that recognized the destructive impact of international corruption on the affected societies—and in fact on the functioning of the market—felt constrained from following the American example of the FCPA because “everybody else was bribing.” It was therefore quite natural that the members of the World Bank used their voting power to block any activity that might embarrass their companies in their quest for business.

It was thus to be expected that I received in 1990 a memorandum from the legal department in Washington, DC, demanding that I immediately stop my improper efforts to control international corruption. I had given a passionate speech in front my colleagues at a staff retreat in Swaziland, proposing a task force for developing a systematic concept against international corruption. Quite a number of them had agreed to join my initiative. We even had enlisted a number of African and European business leaders, who also felt they were victims of corruption.

My colleagues had all experienced the same frustration of rejecting bad project proposals because they were overdesigned, too expensive, or environmentally or socially harmful—but then seeing these same projects going ahead more rapidly than the good projects, which the donor community supported. Very often these poorly designed projects were driven by an unholy alliance of corrupt promoters from the global North and powerful kleptocrats in Africa. They were able to mobilize a consortium of banks with the help of export financing, often at higher interest rates and with higher total project costs. It is the sheer number of these types of white elephant projects that are at the root of the economic and financial failure in much of the developing world.

Our task force was determined to protect the people of Africa against the poverty and misery caused by their corrupt leaders. This is why the

memorandum of the legal department was such a great shock to us. The memo took the position that our idea of fighting corruption was not only illegal under the World Bank's charter but that it was also naive and unprofessional, and therefore we had to give this idea up immediately.

When I continued to promote the idea in my own free time, the president of the World Bank himself, Barber Conable, sent me a message pointing out that my anticorruption work, even if kept separate from my role of World Bank director, was embarrassing and had to stop. I had to leave the World Bank if I wanted to continue this work.

At about the same time, the German deputy minister of economic cooperation stopped two German development agencies, the Gesellschaft für technische Zusammenarbeit (GtZ) and the Stiftung für Internationale Entwicklung (DSE), from financing a first brainstorming session scheduled for 1990 in Berlin. Their managing directors, Hansjörg Elshorst and Peter Sötje respectively, had understood the devastating impact of systematic corruption, especially for people in the developing world, but their political masters were not ready to stop German business from systematically bribing in the international marketplace.

Accordingly, my efforts to advance the anticorruption drive were met with hostility and ridicule in government and business circles, although my presentations at international conferences, particularly those organized by the Global Coalition for Africa (GCA), found increasing support by leaders in the development community, including politicians and intellectuals from Africa, Latin America, and Asia.

Founding Transparency International

In early 1993 we felt that a critical mass for launching a civil society organization had been achieved. After creating a legal entity in the form of a German not-for-profit association (Gemeinnütziger Verein) with nine cofounders in the Maastricht office of Jan Pronk, then minister of development of the Netherlands and cochair of the GCA, we invited about 40 supporters to the Villa Borsig in Berlin in May 1993. Even at that early date we already had prominent participants, including former politicians, business leaders, and civil society activists from Africa, Asia, and the Americas.

At that conference exactly 20 years ago we agreed on the name Transparency International. Even though it sounded too tame for some of the participants at the meeting, it reflected the intention to cooperate with governments and business in the face of the technical complexities of cor-

ruption—especially international grand corruption—where confrontation might interfere with the need for finding joint solutions. We also agreed on three basic principles for our work:

1. a holistic approach to improving systems against corruption;
2. noninvestigation of individual cases of corruption for exposure; and
3. mobilization of civil society in the affected countries and regions to diagnose their own problems and to design and implement the necessary reforms.

These three principles served TI well and are still the three tenets of our work worldwide.

This rather technocratic approach has to be understood in the context of the legal and political attitude toward international corruption at the time. It was considered destructive, ugly, even unethical, but was accepted as necessary and legal by the majority of governments in states where the bribes originated, as well as by business enterprises and even the academic community around the world. In a globalized economy without binding governance, this mercantilist position was considered legitimate—and our approach naive and unprofessional. We had to tread very carefully in order to survive.

1. The *holistic approach* was in stark contrast to the aims of most anticorruption efforts, which focused mainly on punishment and sanctions. TI recognized that prevention and positive incentives were just as important. We saw that a system to protect society against corruption had to have many diverse elements, such as procurement rules, access to information requirements, conflict-of-interest standards, political financing rules, even the value systems of society as taught in faith-based organizations and schools. Criminal sanctions are only one arrow in the quiver, and a relatively blunt weapon for that matter, because under most civilized criminal law systems the barriers of due process against punishment are very high. As a result, business leaders find the risk of blacklisting by the World Bank or from lucrative government contracts more onerous than criminal sanctions with their high burden of proof.

Very early on, TI began to establish the most important elements of integrity systems—we called them pillars of integrity—into Integrity Systems Source Books for use by our members in their fight against corruption. These pillars were quasi checklists for diagnosing the strengths and weaknesses of a country's integrity system. National Integrity System

Reviews were carried out in many countries. The same approach could be used to look at the integrity systems of provinces, of municipalities, even of sectors—for example, the health sector in the province of Cordoba.

2. The *noninvestigation of individual cases* for exposure has become a rather controversial policy. After all, the naming and shaming of the corrupt was seen by many as one of the most effective tools for fighting corruption. Our fear was that we would be victimized by harassment, threats, and libel suits all over the world. We also felt that some of the corrupt arrangements in international trade and investment were so complex that we needed the cooperation of the major players in this arena to effectively tackle them—albeit an occasionally antagonistic cooperation.

Soon TI noticed that a total abstention from focusing on individual cases could turn it into a toothless tiger, and over time various ways to feature individual cases, particularly those in the public domain, became more accepted, as its growing reputation and political strength provided the necessary confidence for cautiously opening this battle ground. However, this still did not change our intention to cooperate as much as possible with governments, international organizations, and business, as long as the independence of TI could be clearly protected. We were often criticized for this cooperation by other, more confrontational CSOs.

For instance, when I worked with Siemens and other global companies on analyzing and controlling international corruption, scorn was heaped on what another CSO called “offering a fig leaf” to the companies that would not change one bit despite their verbal commitments to help us in our campaign. Of course, when Siemens was caught in 2004 for large-scale international bribery, the voices of “we told you so” were raised, as if TI had been used by Siemens to continue their corrupt ways with impunity. In reality it was the other way around. Siemens and other powerful companies had helped TI to make the OECD Convention against Bribery of 1997 a reality. As I will describe later, without the open letter written by these companies to the Kohl government in 1997 demanding the signature by Germany of this convention, Germany and consequently also France, the United Kingdom, and other exporting countries would not have participated (see below on “Collective Action”). Without the convention, Germany would not have changed its permissive law in May 1999. On the basis of this law Siemens was prosecuted and eventually turned away from its earlier systemic corruption.

3. The *mobilization of civil society in the affected countries* in the form of national chapters is probably the most important structural feature of TI.

At the 1993 launch conference we decided that TI would not evaluate corruption in various countries and try to impose its proposed solutions from a global vantage point. Instead, we would try to empower participating societies to diagnose their own problems, design suitable reforms, and implement these, hopefully in cooperation with government and private sector actors in their countries. The global movement would support these efforts with tools such as the Integrity System Source Book mentioned above, information about anticorruption experiences worldwide, and other instruments. Regular meetings, workshops, conferences, and publications helped to build a movement of mutual exchange and support driven by national chapters across all continents.

An essential role was afforded to national chapters at one of the first annual membership meetings in Uganda. While the TI association had been founded on the basis of individual memberships, its charter was changed to make the national chapters the main decision-making body, electing the international board and its chair, deliberating on important policy issues and the annual budget. Individual members can only have up to one-third of the votes.

Today TI has 107 national chapters. They range from small advocacy groups without professional staff in some countries to chapters with thousands of members and well-staffed secretariats in others. In spite of their diversity, they have to live up to minimum requirements, which are regularly reviewed in a participatory accreditation process. With a budget of over 22 million euros in 2012, raised from a multitude of public and private donors, the international secretariat with about 180 international staff in Berlin supports the movement (Transparency International 2013).

Transparency International Fighting Corruption

Two decades ago we would not have dreamt of the impact of TI and the tangible changes in the corruption arena that we can see today. Looking back we have to recognize that many factors came together, including the opportune time at the end of the Cold War, courageous personalities and institutions, and a growing demand of the people for better governance. It is hard to imagine that only 15 years ago, the powerful governments of civilized countries and their intergovernmental organizations defended the systematic grand corruption of their citizens and companies outside their borders, thereby perverting decision making in the developing world—leading to untold poverty, misery, conflicts, and violence.

Today the UN and its agencies, the Bretton Woods institutions, the regional development banks, and the governments of most countries have joined an often draconian fight against international corruption. In Germany alone, more than 100 criminal anticorruption cases are pending against some of the most powerful world companies. Several global and regional anticorruption conventions have been signed and ratified by a large majority of governments and their parliaments. In my humble opinion—and based on my practical experience—it was the advent of the power of organized civil society, including Transparency International which made this possible.

TI's 'Islands of Integrity': Collective Action

Probably the most helpful idea in creating TI was our concept of “Islands of Integrity”: we recognized that it might be unrealistic to demand our supporters to stop bribing overnight, everywhere in the world, but that it might be feasible to identify relevant markets, actual competitive situations with only a limited number of competitors, where each one of them was afraid that the others were bribing. We felt that it would be feasible to arrange in such situations for a mutual commitment by all of them to stop bribing simultaneously. I knew from my work at the World Bank that often only five or ten companies were prequalified to bid for large infrastructure projects. Each of them should be willing not to bribe—if only they could be assured that their competitors would not bribe either.

Robert S. McNamara, the former president of the World Bank, was so enthusiastic about this concept that he came in 1993 to Berlin for the launch of TI. He called the Islands of Integrity concept the “exit route from the Prisoners’ Dilemma” in which the corrupt companies and their home governments had been caught: nobody dared to stop bribing unilaterally and potentially lose out in a generally corrupt global market. The Islands of Integrity—today we call it the “TI Integrity Pact” or “Collective Action”—was indeed the way out of this trap.

In fact, this became an important solution for a stalemate we reached at a decisive series of meetings with the business community. From 1995 to 1997 we arranged three meetings at the Aspen Institute on the Wannsee with about 20 leaders of German business—including top managers from Siemens, ABB, Lufthansa, Daimler, Schering, and others—to discuss international corruption and possible reforms. Richard von Weizsäcker, who had just ended his presidency of Germany, chaired the first meeting.

The first meeting ended badly: the company representatives claimed that what they were doing abroad was not corruption but legitimate business

acquisition—as customary in foreign markets with different legal systems and values. It was a sign of respect for other cultures and traditions not to impose Western mores on other societies. The second meeting a few months later was already marked by a growing awareness of the damage caused by grand corruption everywhere in the world. Also, a few scandals of international corruption had hit the media. Hence, there was some recognition that what the companies were doing abroad would be called corruption if it was done at home. But since everybody else was bribing in the world market, there was nothing one could do about it without untold damage to one's business.

The third Aspen meeting in early 1997 brought the breakthrough: again, the company representatives professed that international corruption was causing a lot of damage, that they would like to stop and compete with their excellent products on a corruption-free market, but they could not unilaterally end this practice. It was at that point that the TI Integrity Pact was tabled. We promised to identify relevant markets where we would identify all competitors, arrange for a legally binding nonbribery pact, organize independent monitors—perhaps TI national chapters—and help design sanctions against breaches. These sanctions included blacklisting of defaulters, liquidated damages, or forfeiture of bid securities. Based on this proposal the business participants agreed to support TI.

In fact, they sent an open letter to the Kohl government, requesting that Germany support an effort by the OECD to stop the bribery of foreign officials. This effort, which TI had been supporting for a number of years, was in essence collective action at the global level: all OECD members and a number of other large exporters promising to stop bribing abroad.

The 1997 OECD Convention Against Bribery of Foreign Officials

In the fall of 1997, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was signed; it entered into force in early 1999. This marked a watershed in terms of fighting international corruption. It would not have been thinkable without the open letter sent by the German business community to its government. With the exception of a few supporters of our cause, the government had been openly hostile to any attempts to restrict foreign bribery. It was quite similar in other European countries: without the German initiative this powerful convention would never have seen the light of day.

Of course, there were other important contributing factors. Most importantly the president of the World Bank, James Wolfensohn, invited TI

leadership in the spring of 1996 to a full-day seminar with his top managers and began a process of turning this powerful institution from Saul to Paul, crowned by his annual speech in Hong Kong about the “Cancer of Corruption.” Since then the Bretton Woods institutions have been strong supporters of the anticorruption agenda.

Similarly, the UN agencies, regional organizations including the European Union, and a number of national governments—and in particular their development agencies—rapidly supported a global anticorruption agenda.

But the task of civil society organizations like TI was not yet over. The signatory states of the OECD convention did not all implement and enforce their legal commitment to criminalize foreign bribery and actually translate these new rules into action. As the regular monitoring reports by TI indicate, some countries dragged their feet in punishing foreign bribery by their companies (Transparency International 2013).

While a few countries, such as Japan, have done practically nothing to introduce effective laws against foreign bribery by their citizens, others, including the United States (which continued, of course, the long tradition of the Foreign Corrupt Practices Act of 1977), Germany, and most recently the United Kingdom and France, apply rigorous systems of punishing foreign bribery. CSOs, and notably the national chapters of TI, played an effective role in nudging their governments toward compliance.

In the United Kingdom, for instance, CSOs sued the government because it had stopped investigations by the Serious Fraud Office of major corruption cases of BAE abroad; this was widely seen as a breach of its obligations under the OECD Convention. Draconian rules have now been introduced and are being implemented in the United Kingdom.

In Germany the prosecution of foreign bribery also started slowly. By now the record has become quite good: more than 100 companies, some of them major players internationally, including Siemens, MAN, Ferrostahl, and others, are being prosecuted. Unfortunately, the German record is being spoiled by the refusal of the members of the Bundestag to ratify the UN Convention against Corruption—mainly because it would mean giving up an odd privilege of German parliamentarians to be bribed with impunity.

Other TI Anticorruption Tools

One of the most powerful tools Transparency International has is the annual Corruption Perception Index (CPI). In 2012 it ranked 174 countries according to perceived levels of public sector corruption in countries

worldwide. Based on expert opinions countries are scored from 0 (highly corrupt) to 100 (very clean). Two-thirds of the countries score below 50, which means that public institutions have to become more transparent and accountable.

The CPI was created in 1995 more or less by coincidence, when a young PhD candidate, Johann von Lambsdorff, working as an intern at our small international secretariat, attempted to quantify measurements of corruption. After discussing it off the record with a journalist it appeared with initially 54 countries in a prominent German weekly. We had to choose if we wanted to disown our intern or embrace the index as an imperfect but very effective tool. It has served us well in helping to build public awareness for corruption.

Numerous other indices, including national, regional, sectorial perception indices and the powerful public opinion survey, the *Global Corruption Barometer*, developed over time. They force governments, companies, media, and people generally to take notice of corruption, a first step towards controlling it.

Other tools that have come into use since 2001 include the Global Corruption Reports series. This comprises comprehensive status reports about the fight against corruption, each one with a special theme, like political corruption, corruption in procurement, in the health sector, in the judiciary; in 2013 the focus was on education.

Since 1997, TI has been responsible for organizing the biannual International Anti-Corruption Conferences, which help build global networks against corruption, with participants learning from each other and driving the frontier of anticorruption forward. At the last conference, in November 2012, 1,900 people from over 140 countries gathered for four days in Brazil. They came from politics, business, civil society, the media, and academia. The Brazilian president, Dilma Rousseff, struggling with widespread corruption in her own country, opened the meeting.

One tool was created 10 years ago and has become particularly effective. The advocacy and legal advice centers (ALACs) offer free and confidential legal advice to witnesses and victims of corruption and thereby help citizens break their silence around corruption. Today 90 ALACs operate in 60 countries; more than 140,000 individuals have contacted TI's centers.

An untold number of tools and anticorruption instruments are at work, mainly developed by the over 100 TI national chapters. The international secretariat supports and coordinates this highly innovative work while also

focusing on global and regional tools, including the Corruption Perceptions Index and the Global Corruption Reports, as well as articulating a coherent strategy and presenting a global voice of the movement in the international arena.

Many of these evolving tools have a sectorial focus—for example, corruption in the health sector, in education, in water and sanitation, in forestry and land use, in local government, in business, in arms trade and security. (There are too many such tools and instruments to list here; they may be found at www.transparency.org).

But there is one sectorial initiative worth singling out because of the unique opportunities and also challenges involved in this sector: extractive industries, including oil and gas, mining, forestry, and fisheries. This is also an initiative that serves well as a tangible illustration of the main argument of this paper: the strength of the triangular cooperation between government, business, and civil society in dealing with intractable governance issues.

The Extractive Industries Transparency Initiative

The extractive industries sector, in particular oil and gas and mining, is one of the sectors most vulnerable to corruption. The investments are huge, commitment periods are very long, and the technical, commercial, and political risks are considerable. On the other hand, the potential for natural resource development to become an engine of inclusive growth and development, particularly in poor countries, is very attractive. But the record of the industry is poor. TI and other CSOs therefore felt that a special approach would be needed to promote transparency and accountability for extractive industries.

Transparency International UK joined a group of active CSOs stationed in London, including Global Witness, Oxfam, and Human Rights Watch, to demand extractive industry companies to publish what they pay in taxes, royalties, dividends, signature bonuses, and other transfers to the governments in their resource-rich host countries. These amounts are huge, but in many countries kept out of sight of the parliaments, the media, and civil society, making it difficult to hold the power elites in these countries accountable for these riches.

A number of companies, like BP, Shell Oil, Anglo American, and Vale, agreed in principle to making these flows open. Around 2001 though, some of their host countries (for example, Angola) prohibited their publication, reminding the operators of confidentiality clauses in their investment

agreements, with the veiled threat to terminate the production rights in case of breach. We therefore nearly accepted with resignation that our idea had failed. However, in the meantime the World Bank, the IMF, DFID, and some powerful politicians, such as British Prime Minister Tony Blair, various private entrepreneurs, like Mark Moody-Stuart, and philanthropists, like George Soros, had begun to support this campaign. We continued the idea—but changed our approach to also challenging the host governments to allow the release of these data.

The breakthrough came in 2003, at the tenth anniversary of TI, when President Olusegun Obasanjo of Nigeria announced at a large university lecture in Berlin that his country would not only allow the publication of payments to the Nigerian government but would even make it mandatory for all companies operating there, and that the government itself would report all its revenues from extractive industries. This was the green light for a conference in 2003 in London where the Extractive Industries Transparency Initiative Principles (EITI) were agreed upon.

In the subsequent multistakeholder advisory group meetings, rules were drawn up to ensure that all participating countries committed to a minimum level of transparency in reporting payments by companies and revenues received by governments. The group completed its work in the fall of 2005, when a global conference in Oslo launched the initiative. In the meantime 40 implementing countries, from Azerbaijan to Nigeria and Indonesia, have submitted, through their own national multistakeholder working groups, regular reports, scrutinized by validators for the approval of the multistakeholder global board.

The rules have evolved. A major development was the passage of the Dodd-Frank Act into law in the United States in 2010. Its provision in Section 1504 goes beyond the EITI standards, prescribing mandatory information, on a project-by-project, country-by-country basis for all companies listed in the United States, about the billions of dollars they pay to governments across the world.

The Dodd-Frank Act has catalyzed global action. The European Union recently adopted guidelines that match the US statute. Similar rules are being developed in Canada, France, Norway, Switzerland, and the United Kingdom. But despite the potential for payment transparency rules to control international corruption, the American Petroleum Institute—an oil industry lobby group—has successfully challenged the guidelines of the Dodd-Frank Act by the US Securities and Exchange Commission (SEC)

specifying how companies should comply with the Act. A US court ruled that the SEC must review its implementing rules and reissue them with a fuller justification for its decisions.

The EITI rules have also been expanded: while in the past they had been implemented in a relatively narrow fashion focused merely on the payments made and received for extractive industry operations, the 2013 EITI membership meeting in Sydney decided to require that national EITI reports should be better grounded in national priorities and reforms. Under the new requirements, “the reports must contain basic contextual information about the fiscal regime, contractual framework, production, licensing procedures, revenue allocations and expenditures” (Short 2013). This information will help to broaden the enabling environment for extractive industries in the future.

These additions are the result of nearly two years of consultations by the EITI board and its partners in governments, business, and organized civil society. They represent a significant step toward creating a global coherent standard in this vital but challenging sector, which none of the three actors would have been able to achieve alone.

Coalitions of State, Private Sector, and Civil Society for Good Governance

From our experience in fighting international corruption it is evident that a coalition of the three actors of governance—the state as prime actor, the commercial sector, and civil society organizations—can offer solutions in important areas of failing governance related to integrity and accountability.

It is safe to conclude that the same coalition can also address other issues of failing governance, such as protecting the environment, addressing climate change, fighting violations of human rights, and establishing fair labor standards. The three actors have to complement each other in diagnosing problems together, developing joint proposals for reform, and introducing and monitoring these reforms in order to establish together better governance worldwide.

This is widely and increasingly recognized: a free and vigilant civil society is essential if we are to tackle poverty and the injustice of economic globalization, and to dispel the climate of despair and alienation that serves as a breeding ground for conflict, war, and terrorism. However, to take on this responsibility, organized civil society also has to change. There are at least four major challenges for many CSOs to grow into this role:

First, the decision-making processes of CSOs themselves, and generally their governance, have to improve: Are they open and participatory? Are they democratic?

Second, financial transparency, the openness and accounting for their funds, the identity and accountability of their financial supporters—all of these have to be clear and transparent. Can this be left to self-regulation? Or should the state set the minimum requirements? The examples of severe restrictions placed on civil society in Russia and China argue for caution in this field.

Third, the competence and professionalism of the leaders and activists in CSOs have to be strengthened. This is a challenge to academia: research and training for CSOs through focused curricula and based on close interaction is essential. The establishment of numerous research and training centers for civil society in the United States and Europe is cause for optimism in this area.

Finally, CSOs have to learn the art of being open to coalition building, a willingness to cooperate with the other actors of governance, without losing their independence.

In addition, there are numerous other obstacles that must be overcome in order for CSOs to become partners with the other actors of governance. There is for instance a huge gap between the large international advocacy NGOs (INGOs), some with annual budgets of more than a billion dollars, and their small local relatives at the grassroots level in the villages and rural areas of Africa, Asia, and Latin America. And yet they also depend on each other.

The governance problems of CSOs are addressed through a number of important initiatives. For example, since 2006 the Accountability Charter for INGOs has been administered by the Berlin Civil Society Center (now renamed the International Civil Society Center) with the support of the Global Reporting Initiative and addresses through a voluntary code of conduct the most important elements of CSO governance (www.ingoaccountabilitycharter.org). Other similar initiatives give reason to expect that organized civil society will grow into its role as a driving force for a new paradigm of global governance.

An effective coalition of state and business and civil society is bringing transparency and accountability to global governance in the fight against international corruption. The hope is that it can also bring solutions to other ills of globalization, which is now marked by injustice and inequity,

poverty, violence, conflict, environmental destruction, and climate change. With this magical triangle of cooperation, there is hope for a better, more just world for everybody.

References

- Short, Clare. 2013. "Foreword." *The ETU Standard*, edited by Sam Bartlett and Dyveke Rogan. Oslo, Norway: The EITI International Secretariat. http://eiti.org/files/English_Em%20STANDARD_IIJuly_O.pdf.
- Transparency International. 2013. "Annual Report 2012." Posted July 31. http://www.transparency.org/whatwedo/pub/annual_report_2012.
- Transparency International. 2013. "Exporting Corruption—Progress Report 2013: Assessing Enforcing of the OECD Convention on Combating Foreign Bribery." Posted October 7. http://www.transparency.org/news/feature/turning_a_blind_eye_to_bribing_foreign_officials.
- World Bank. 2011. "Publications and Research: Corruption." <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBIGOVANTCOR/0,,contentMDK:2072563~menuPK:1977002~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html>.
- World Bank. 2013. "The Cost of Corruption." <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20190295~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html>