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SOCIAL AND ENVIRONMENTAL ACCOUNTABILITY

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ACCOUNTABILITY OF POWERFUL ACTORS FOR SOCIAL AND ENVIRONMENTAL OUTCOMES

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ABSTRACT

This paper explores the principle of accountability, particularly the accountability of powerful actors for the social and environmental outcomes of their decision making about natural resources. Powerful actors are institutions with decision making powers and influence over management of forests, fisheries, land, water, and extractive resources. While it focuses on government and the private sector, accountability is a principle common to all governance systems. Accountability is the requirement for powerful actors to accept responsibility and answer for their actions; it could be vertical and characterized by a hierarchical principal-agent relationship, horizontal where accountee is not hierarchically superior to the accountor, or diagonal and inclusive of citizen initiatives to hold powerful actors accountable. When vertical, horizontal and diagonal accountability practices are primarily civil society or citizen driven, they are referred to as social accountability initiatives (SAIs). There are five dimensions or aspects to accountability namely transparency, liability, controllability, responsibility, and responsiveness. The main questions being asked by the paper are: why is accountability an essential principle for natural resources governance; how has it been recognized internationally and by whom; and what are the key challenges and good practices related to holding powerful actors around the world to account? The paper finds that government has primary obligation for accountable management of natural resources on behalf of its citizens who are right holders over these resources. However, government is often reluctant to unreservedly hold powerful actors to account, especially business, preferring to allow business to opt for voluntary mechanisms of accountability or to self-regulate. This has given rise to citizen driven SAIs as external means of holding powerful actors to account, while contributing to strengthening formal internal accountability procedures. Thus supporting citizen driven accountability practices in vertical, horizontal and diagonal accountability systems, is a reliable way to ensure that powerful actors in natural resources management are held accountable for the social and environmental outcomes of their decision making and actions.

KEYWORDS

natural resources, accountability, powerful actors, citizens, human rights

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1. INTRODUCTION

This conceptual paper is commissioned by the Natural Resources Governance Framework (NRGF), an initiative of the International Union for the Conservation of Nature (IUCN) Commission on Environmental, Economic and Social Policy (CEESP). Its objective is to provide *'robust, inclusive, and credible approach to assessing and strengthening natural resource governance, at multiple levels and in diverse contexts'* (Springer 2016, 1). A major work program of the NRGF is to provide a *'set of principles, standards and tools for assessing natural resource governance and promoting its improvement'* (Springer 2016, 1). Natural resources in this paper refers to forests, fisheries, land, water, and extractive resources.

This conceptual paper focuses on accountability of powerful actors for the social and environmental outcomes of their decision making about natural resources. Powerful actors in this context are institutions with decision making powers, or significant influence over decision making, about forests, fisheries, land, water, and extractive resources. While the paper focuses mainly on government and the private sector, accountability is a principle common to all governance systems. Powerful actors include governments, business, and influential civil society organizations. In societies with strong customary institutions, local chiefs are also powerful actors as they have significant influence over land, as is the case in many parts of Africa (see Nuesiri 2012). Powerful actors may also include multilateral and bilateral donors, private donors, influential local and international non-governmental organizations (NGOs), and community institutions with responsibility for resource governance.

Moore, Greiber, and Baig (2010) define accountability as the requirement for actors to accept responsibility and answer for their actions. Bovens (2007, 450) defines accountability as *'a relationship between an actor [accountor] and a forum [accountee], in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences.'* Thus accountability could be a formal de jure procedure, or a relational de facto and dynamic process (see Schillemans 2013).

Accountability could be vertical, horizontal or diagonal (Stapenhurst and O'Brien 2005). Vertical accountability *'is characterized by a hierarchical principal-agent relationship'* (Biela 2014, 4), through which *'citizens, mass media and civil society seek to enforce standards of good performance on officials'* (Stapenhurst and O'Brien 2005, 1). Horizontal accountability is *'where the accountee is not hierarchically superior to the accountor'* (Schillemans 2013, 390), such as when the executive branch of government has to give account to the legislature. There is no consensual definition of diagonal accountability but Stapenhurst and O'Brien (2005,

3) state that *'the prevailing view is that diagonal accountability entails vertical accountability actors'* but *'seeks to engage citizens directly in the workings of horizontal accountability institutions'* in order to strengthen *'civil society's watch dog function by breaking the state's monopoly over responsibility for official executive oversight'*.¹ Vertical, horizontal and diagonal accountability practices that are civil society or citizen driven are referred to as social accountability initiatives (Stapenhurst and O'Brien 2005, Bovens 2007).

Koppell (2005) identifies 5 dimensions (aspects, features or elements) of accountability namely: transparency, liability, controllability, responsibility, and responsiveness. Transparency is the most fundamental and has to do with communication of accurate and comprehensible reporting of an institution's performance. In addition to providing the basis for stakeholders' awareness of actions or plans, transparency is essential for establishing liability of decision-makers for their action and their consequent sanctions or rewards. Controllability is related to power; in a democracy power lies with the citizens, who are able to sanction or reward their representatives, primarily through periodic elections and recalls. In turn, elected officials sanction and reward bureaucrats and private business for their performance through procedural rules and regulations. Control is ineffective without transparency and fair procedures and processes for establishing liability.

Koppell (2005) notes that, in the context of state accountability, responsibility pertains to the degree that officials adhere to the norm and laws guiding their actions; it is effective where there are clear lines of control, fair apportionment of liability, and accurate reporting of bureaucratic action. Responsiveness on the other hand is the ability of powerful actors to meet the articulated demands of citizens. It is in part motivated by the desire to avoid liability on the part of representatives, conscious of the controlling power of their constituents.

Accountability processes are effected through formal procedures and citizen driven approaches referred to as social accountability initiatives (SAIs). Formal accountability processes include legal procedures that are often statutory constitutional requirements, and their associated sanctions and rewards. Power holders are obliged to adhere to these formal accountability procedures as part of their electoral mandate (Caddy, Peixoto, and McNeil 2007).

SAIs are defined by Hickey and King (2016, 1226), following Malena and McNeil (2010, 1), as citizen initiatives *'to hold the state to account, as well as actions on the part of government, civil society, media and other societal actors that promote or facilitate these efforts'*. SAIs complement formal accountability, but relies on civic engagement (external means) and not on judicial instruments (internal norms) (see Koppell 2005, Caddy, Peixoto, and McNeil 2007).

Following this introduction, the next section of the paper interrogates the question ‘why is accountability an essential principle for natural resource governance?’ Section 3 considers how it has been recognized internationally and by whom, while section 4 focuses on key challenges and good practices related to holding powerful actors around the world, to account for the social and environmental outcomes from their decisions about natural resource use and conservation. Section 5 concludes the paper with helpful recommendations going forward.

2. WHY IS ACCOUNTABILITY AN ESSENTIAL PRINCIPLE FOR NATURAL RESOURCE GOVERNANCE?

Accountability is a central principle for good governance, including governance of natural resources, because it serves to prevent or mitigate negative social and environmental impacts, and protects against abuses of power (Ottinger 1969, Koppell 2005, Bovens 2007). A more positive approach is that accountability guides the actions of power-holders towards more socially and environmentally sustainable results, by ensuring that the voice of citizens and potentially-affected people enter the decision-making process.

Governments as primary decision makers over natural resources, often decide on natural resource use without being accountable to local people, resulting in negative outcomes. In Brazil, rubber tappers in the Amazon forest in the State of Acre protested against ranchers encouraged by government to set up operations in the Amazon, and this led to the assassination of their local leader Chico Mendes in 1988 (Rocha and Watts 2013, December 20). In India, the government in 1972 commissioned the ambitious Tehri Dam Project on the Bhagirathi River in Uttarakhand State. Construction commenced in 1978 and the first phase was completed in 2006 (Sharma 2009). The dam displaced close to 100,000 people leading to land alienation and loss of livelihoods. It also reduced the flow of the Bhagirathi with negative impact on religious practices associated with the river, and on biodiversity of the river ecosystem (Newton 2008, Sharma 2009). Despite strong citizens and international protest against the dam, the Indian government pushed ahead with its construction (see Sharma 2009, Rao 2013, Rana et al. 2007).

Even actions with a focus on environmental protection risk negative social impacts where they are not accountable to local people. The United States government after creating the Yosemite National Park in 1890, went ahead to empty the landscape of its people by 1905, with severe negative impacts on them (Brockington, Duffy, and Igoe 2008). This was the start of the idea of creating protected areas as landscapes without people, who are often forcefully evacu-

ated. In Kenya, the Masai embarked on a killing of wildlife in Amboseli National Park, in reaction to the loss of livelihoods resulting from the creation of the park by the government without consulting the Masai (Western 1994). Experiences like this led to calls for participation of local people in protected area management (Brandon and Wells 1992, Murphree 1994, Poffenberger and McGean 1996, Adams and Hulme 2001, Hughes and Flintan 2001). This paved the way for citizen driven horizontal accountability checks and balances on park management.

In recent times international investors and multinational businesses are aggressively pursuing large scale land acquisitions for agro-industrial enterprise, mining, hydro-electric dam projects, and logging (GRAIN 2008, October 24, Cotula et al. 2009, Franco et al. 2013, Global Witness 2016, September 15, GRAIN 2016, June 14). Governments in developing countries have been granting their requests without the free prior informed consent (FPIC) of local people, infringing on lands important for local livelihoods. This phenomenon is referred to in the literature as ‘land grabbing’, and has led to loss of livelihoods for local people, and environmental degradation from poor land use practices (Cotula et al. 2009, Franco et al. 2013). Land grabbing demonstrates a lack of vertical accountability relationship between these powerful actors and local communities and has led to local, national and international protests against land grabbing (Franco et al. 2013, GRAIN 2016, June 14, Fraser and Mousseau 2016). Demands for greater accountability from government and these land investors is a way of preventing land grabbing and its social and environmental impacts. This partly explains why the International Criminal Court (ICC) is now considering prosecuting actors in government and business for crimes linked to land grabs (Global Witness 2016, September 15).

As stated earlier in the introduction, transparency is a principal mechanism for operationalizing accountability, where transparency is understood as communication of accurate and comprehensible reporting of an institution’s performance, be it government, business, or NGOs. Transparency is a response to citizen’s right to receive information and the corresponding requirement of powerful actors to release information (see Hale 2008). Transparency is the most significant dimension of accountability required to hold powerful actors to account (Koppell 2005, Gaventa 2006, Hale 2008). Transparency also contributes to institutional reflexivity and adaptive management for responsive governance (Hale 2008). Additionally, transparency is essential for providing local people and NGOs who support them, the knowledge base to apportion liability, and exercise a measure of control, over powerful actors.

Transparency exercised through communication that is accurate and readily understood is important for legitimizing all decision-makers, including government policy makers, business activities, and international NGO operations before

the citizenry (Unerman et al. 2006, Caddy, Peixoto, and McNeil 2007, Hale 2008, Thrandardottir 2013). Transparency and by extension accountability therefore enhances collaboration between local people and powerful stakeholders in natural resources governance, potentially improving conservation and sustainable use of natural resources (Darby 2010, United Nations 2011, Hsu 2016). Beyond legitimacy, accountability is important in preventing resource conflicts (see Brinkerhoff 2005, Darby 2010, Iwerks and Venugopal 2016), and this also contributes to improved conservation and sustainable use of natural resources.

Lastly, accountability underpins the relationship between ‘duty bearers’ responsible for the realization of rights (primarily governments), and ‘rights holders’ (citizens irrespective of status) (Campese 2009, OHCHR 2013). Accountability is therefore foundational to a rights-based approach to natural resources governance.

3. HOW HAS IT BEEN RECOGNIZED INTERNATIONALLY AND BY WHOM?

International laws and standards identify States as the primary actors with accountability for natural resource use and environmental protection; States are also accountable for protecting human rights, and bear responsibility to establish appropriate accountability mechanisms. Principle 2 of the Rio Declaration of 1992 assert that ‘States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage’. Furthermore, Principle 11 maintain that ‘States shall enact effective environmental legislation’ including ‘environmental standards, management objectives and priorities’. Principle 13 adds that ‘States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage’ and develop ‘international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.’

In addition, Article 15(1) of the UN Convention on Biodiversity (UNCBD) says ‘Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.’ The Rio Declaration and the UNCBD establish that states hold primary obligations to manage natural use in a manner that do not cause damage.

Likewise, Article 21 (1) of the Universal Declaration of Human Rights 1948 (United Nations 1949) states that ‘everyone has the right to take part in the government of his country, directly or through freely chosen representatives’. Article

25 (a) of the International Covenant on Civil and Political Rights 1966 (United Nations 1976) also states that ‘every citizen shall have the right and the opportunity... and without unreasonable restrictions... to take part in the conduct of public affairs, directly or through freely chosen representatives’. The Rio Declaration in Principles 1, 10, 20, 21, and 22 recognize that citizens, including women, youths and indigenous people, supported by government, should participate in decision making over the environment (United Nations 1992). These international instruments establish that citizens, irrespective of social status and identity, are the principal right holders in the governance of natural resources.

Accountability of governments to their citizens is recognized in the Sustainable Development Goal (SDG) 16 to ‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’.² In context of progress towards achieving the SDG 16, the UN asserts that ‘Peace, justice and effective, accountable and inclusive institutions are at the core of sustainable development’ (UN ECOSOC 2016, 20). Additionally, the UN acknowledges the need ‘to make national and international institutions more effective, inclusive and transparent’, especially the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) of the World Bank (UN ECOSOC 2016, 21).

The World Bank recognizes the role of accountability in ensuring good governance in member countries including responsive governance of natural resources. In this regard, the World Bank includes accountability as one of six global indicators it has been measuring in the past two decades as part of its long term monitoring of global governance.³ The World Bank also includes accountability as part of its environmental and social standards to guide its clients as they execute projects funded by the World Bank (World Bank 2016b). The World Bank states that its environmental and social standards set out requirements that will among other things ‘enhance non-discrimination, transparency, participation, accountability and governance’ in projects receiving World Bank funding (World Bank 2016b, 1).

The World Bank and other similar international financial institutions (IFIs) also recognizes the need for internal accountability mechanisms that would help them address complaints and grievances related to social and environmental outcomes from their funded programmes and projects around the world. These are referred to as the Independent Accountability Mechanisms (IAMs) of the international financial institutions.⁴ The World Bank’s IAM, is known as the Inspection Panel, and it investigates complaints it receives from citizens and civil society in a project host country (World Bank 2009, Jerve 2012, Lewis 2012, World Bank 2016a). In addition to its “problem-solving or dispute resolu-

tion” role, the IAMs also carry out “compliance review” and “advisory role” to the IFIs (Lewis 2012, 11). However, recent competition from the China based New Development Bank (NDB)⁵ has led to a lowering of accountability standards in the World Bank (Bugalski 2016).⁶ The Inspection Panel is now less eager to investigate complaints, leaving it to governments to address complaints from their citizens.

In 2011, the United Nations Human Rights Council (UNHRC) adopted the ‘Guiding Principles on Business and Human Rights’ (United Nations 2011), in recognition that business are not only accountable to government but also to the local communities where they work. The principles address how business can respect and protect human rights. In a call for transparency and consequently accountability, Principles 16 and 21 require that business communicate clearly with affected persons and communities about their human rights impacts, mitigation policy, redress and remedial operational procedures. In addition, the principles ask business to also communicate information about their internal instruments for accountability including independent verification process. These principles respond to calls to make business more accountable to local people and communities (Stavins 1998, Paddock 2004).

The growing power of international NGOs (INGOs) has come with criticisms regarding their social and environmental impacts and calls for their greater accountability. In response, some INGOs have responded by developing best practice accountability codes of conduct that they sign up to and by which they are held to account by their peers. These include the INGO Accountability Charter (now called Accountable Now),⁷ and the Principles of Accountability for International Philanthropy (see COF 2007). Independent Sector, an NGO in USA has put together a compendium of standards and codes guiding NGO practices on their website.⁸

INGOs in the conservation sector like the World Wide Fund for Nature (WWF) and the World Conservation Union (IUCN) have adopted policies regarding the social and environmental impacts of their activities. These have now put in place accountability mechanisms focused on prior assessment, stakeholder engagement and grievance mechanisms, such as the WWF Environment and Social Safeguards Integrated Policies and Procedures,⁹ and the IUCN Environmental and Social Management System (ESMS).¹⁰

Other international institutions that recognize the importance of accountability for responsive governance includes the Open Government Partnership (OGP),¹¹ the Transparency and Accountability Initiative (TAI), the Extractive Industry Transparency Initiative (EITI), and the Natural Resource Governance Institute (NRGI), a non-profit organization that builds capacity of government, business, and communities to adopt and implement social and environmental accountability assessments. All over the world, international and

national NGOs work to build the capacity of government, business, and civil society to implement accountability initiatives for responsive governance of natural resources (Combaz and McLoughlin 2014).

4. ACCOUNTABILITY IN NATURAL RESOURCE GOVERNANCE: KEY CHALLENGES AND GOOD PRACTICES

Fox (2014) argues that formal and judicial accountability mechanisms to hold government to account are weak particularly in developing countries. Where formal judicial accountability mechanisms are weakly upheld, social accountability initiatives (SAIs) are highly relevant to achieving responsive governance. SAIs are instruments that ‘promote both responsiveness and accountability at various stages throughout the formulation, implementation, monitoring and evaluation of government policies and programs’ (see Caddy, Peixoto, and McNeil 2007, 6). SAIs ‘try to improve institutional performance by bolstering both citizen engagement and the public responsiveness of states and corporations’ (Fox 2014, 9).

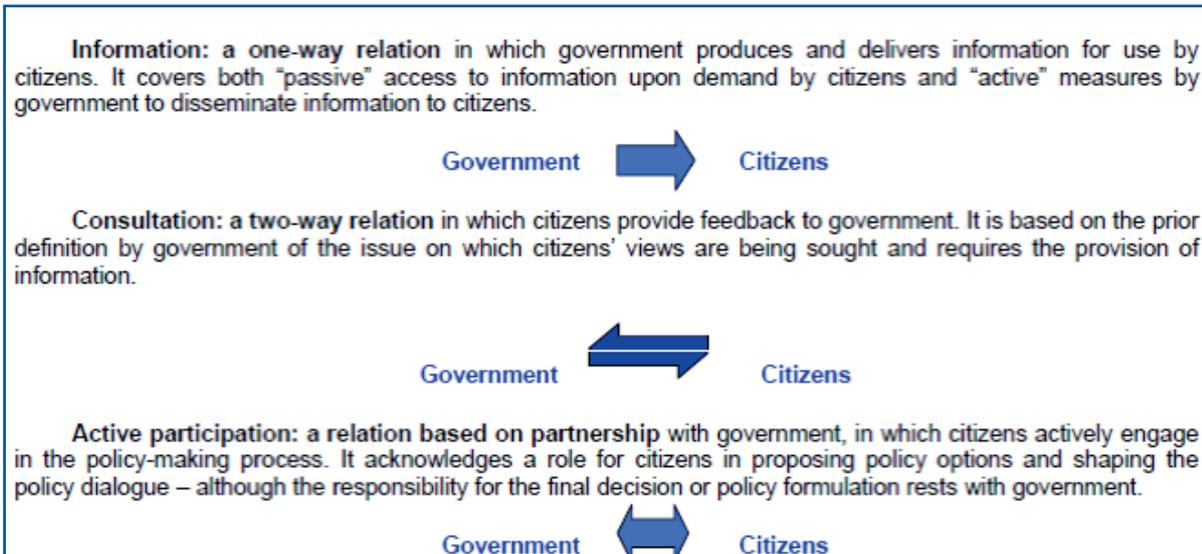
Citizen engagement ‘can bring more facts to the table, ensure more thoughtful decision-making and, through well designed permits, increase the amount of data available to monitor compliance and reduce demands on enforcement’ (Paddock 2004, 249). Citizen engagement works when governments go beyond one way information relations with citizens, and embrace a two way participatory relationship (see Box 1), where citizens are actively engaged in policy dialogue and decision making processes (see Caddy, Peixoto, and McNeil 2007). One way for government to achieve this is to statutorily recognize citizens groups as diagonal accountability instruments similar to the kind of status enjoyed by ombudsman and quasi-independent audit agencies.

Citizen driven accountability mechanisms like SAIs are results oriented, and ‘focus public entities on outcomes and impacts rather than inputs and process’ (Andrews and Shah 2005, 166). The World Bank in recognition of the positive impact of citizen driven accountability initiatives published its social accountability sourcebook in 2005,¹² and in 2012 the World Bank started the Global Partnership for Social Accountability (GPSA).¹³ Civil society organizations involved in capacity building of communities adopting social accountability mechanisms can approach the GPSA for funding to support their work (see GPSA 2016).

A. Key challenges

The key challenges hindering accountability of government, business, and powerful civil society organizations include weak political will on the part of government – as the actor principally responsible for upholding and ensuring accountability. This is followed by weak local capacity for collective

Box 1: Social accountability depends on government – citizen relationship



Source: Caddy, Peixoto, and McNeil (2007)

action to demand accountability; lack of resources by civil society organizations in developing countries; and weak regulatory regimes to move business towards accountability. These 4 key challenges are expanded upon below:

i. Weak political will on the part of government

Government as the principal legitimate rule maker and enforcer in society is to set the ground rules that ensures compliance with formal judicial accountability mechanisms, and encourages citizen driven accountability initiatives (Gaventa, McGee, and Zipfel 2007, Piper 2014). However, governments are often reluctant to make powerful actors comply with formal accountability standards. In addition governments are yet to fully embrace citizen driven accountability initiatives because they are ‘*distrustful of civil society actors, or intolerant of what they see as illegitimate meddling in the affairs of government*’ (Malena 2009, 6)

ii. Weak local capacity for collective action

Where local people and communities are poor, marginalized, and disenfranchised from the political process of a country for a significant period of time, they tend to be weak at collectively organizing to demand accountability from powerful actors (Eyben 2011, Mansuri and Rao 2013, Fox 2014). Governments and other powerful actors in society including business, often act to discourage and even forcibly prevent collective action by local people and communities contesting the action of these powerful actors (Olson 1971, Tucker 2007, Cai 2008). Where people are very poor, they may be unable to afford the transaction cost of collective action required to articulate, communicate, and act on their complaints and demands powerful actors involved in natural resource governance (Rydin and Pennington 2000).

Local people may also be uninterested in collective action because they are uninformed about government policy and business practices with negative social and environmental impacts (Stavins 1998). This flags up once more the importance of transparency in establishing accountability.

iii. Lack of resources by civil society organizations in developing countries

Civil society organizations including community based organizations, NGOs and social movements play a key role as change agents empowering citizens to demand accountability of government, business, and other powerful actors (MBOSCUDA 2013, Combaz and McLoughlin 2014, Fox 2014). Civil society organizations knowledge base, technical, and financial capacity, to support, design and implement social and environmental accountability actions reflects the socio-economic and political context of the country in which they are founded (CommGAP 2007, Brinkerhoff and Wetterberg 2016). Consequently, those from the developed world are often better resourced compared to their counterparts in the developing world; however, for sustained citizen driven accountability interventions, the involvement of local civil society organizations is crucial (UNDP 2013, WWI 2015, Iwerks and Venugopal 2016).

iv. Weak regulations and sanctions to move business towards accountability

Governments and international organizations would rather formulate symbolic environmental regulations and hesitate to enforce strong regulations because they do not wish to offend powerful actors in business (Matten 2003, Baker 2007). Stavins (1998) argues that governments do this

and get away with it because citizens are often ill-informed about the full impact of business on the environment and the substance of governmental regulations.

In regards to transparency, Gray (2002) notes that business is very selective in reporting, and use their reports to boost their image. He argues that business will be more transparent and accountable only in response to strong enforceable regulations (Gray 2002). Voluntary approaches to incentivize accountability of business to communities is used for self-promotion in line with an ethics of narcissus – a strong inordinate concern over the self (Roberts 2001). The United Nations ‘Guide to Business and Human Rights’ (United Nations 2011), calls on governments to take a strong stance to compel business to be more responsive to social concerns.

B. Good practices

Good practices for holding governments, business, international organizations and influential NGOs to account include grievance mechanisms and ombudsman, citizen tracking of government revenue and expenditure, collective action through community organizing, adoption of voluntary standards set by third parties like the Extractive Industry Transparency Initiative (EITI), independent environmental assessment instruments, self-regulating mechanisms, north-south alliances and networks like the GPSA, and media campaigns.

i. Grievance mechanisms and ombudsman

The Office of the Compliance Advisor and Ombudsman (CAO) serving the World Bank and its associated agencies defines grievance as *‘an issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve’* (CAO 2008, iv). Grievance mechanisms are set up by governments (local and national), international organizations, and business. They are formal procedural instruments easily accessible by citizens or civil society groups working with local communities. The World Bank’s Inspection Panel is a grievance mechanism that affected persons or communities can call upon to visit a project site to inspect *‘to determine whether harm has occurred as a direct result of World Bank non-compliance with its policies and procedures’* (World Bank 2016a, 3). The United States have the Whistleblower Protection Enhancement Act of 2012 (WPEA), which recognizes the essential role of whistleblowers in ensuring accountability of government agencies, and assures protection for whistleblowers against retaliation. The act also creates the Whistleblower Protection Ombudsman *‘to educate agency employees about prohibitions on retaliation, and rights and remedies against retaliation, for protected disclosures’*.¹⁴

The Office of the Compliance Advisor/Ombudsman for the members of the World Bank Group including the Interna-

tional Finance Corporation (IFC), have put together a useful guide for designing and implementing grievances mechanisms for a variety of development projects (see CAO 2008). Likewise the Harvard Kennedy School have also published a study that puts together essential lessons learned about company-stakeholder grievance mechanism (Rees 2011). A key lessons learned is that transparency is very important as *‘an operational-level grievance mechanism’*, which helps with keeping *‘parties to a grievance informed about its progress’*, and thereby *‘providing sufficient information about the mechanism’s performance to build confidence in its effectiveness’* (Rees 2011, 23). Furthermore, the Netherlands based Centre for Research on Multinational Corporations (SOMO) assert that:

There is a pressing need for states in both home and host countries of multinational companies to ensure access to effective domestic judicial mechanisms for those affected by business-related human rights abuses. At present, however, judicial avenues for obtaining remedy for business-related harm are often not a viable option. In the vacuum, non-judicial grievance mechanisms (NJGMs) have proliferated (SOMO 2014, 1).

In response, SOMO’s (2014) briefing paper, provides a snapshot of non-judicial grievance mechanisms that civil society organizations can avail themselves including: inter-governmental grievance mechanisms International Labour Organization’s Committee on Freedom of Association that protects trade union rights, national human rights institutions, mechanisms associated with development finance institutions like the World Bank’s Inspection Panel, sectoral and multi-stakeholder grievance mechanisms like the Roundtable on Sustainable Palm Oil (RSPO), and lastly business initiated operational-level grievance mechanisms.

ii. Citizen tracking of government revenue and expenditure

Citizen tracking of government revenue and expenditure is important in a context where corruption is rampant, as is the case in the ecologically devastated Niger Delta oil producing region in southern Nigeria.¹⁵ This is important in the Niger Delta region because funds provided to national and state governments by the oil industry for community development projects, to compensate for the social impact of the oil industry, is often mismanaged and unaccounted for. The Natural Resources Governance Institute (NRGI) worked to build capacity in citizen revenue and expenditure tracking in the region from 2008 to 2012. This was the Bayelsa Expenditure and Income Transparency Initiative (BEITI) (Pellegrini and Venugopal 2013, Iwerks and Venugopal 2016). Bayelsa State is in the Niger Delta region. The BEITI brought together civil society, government and the oil industry to track state and local government revenue and expenditure in Bayelsa. NRGI built the capacity of civil society in the Ni-

ger Delta to engage with government and the private sector, to understand financial reporting and to be able to produce and disseminate financial reports on state and local government spending for local people and communities.¹⁶ Revenue tracking of the oil industry, enabled citizens to demand accountability for social and environmental impact of the oil industry in their communities.

On working with business, Pellegrini and Venugopal (2013, 16) state that ‘BEITI membership included companies from the onset, making it possible to create a commitment to disclose company payments to the state government’ and that ‘company collaboration is necessary to align social expenditures with local development plans’. The NRG maintains that for the BEITI to work government had to show a willingness to engage with civil (Pellegrini and Venugopal 2013). The NRG also maintain that the initiative needed strong donor support, and success is dependent on such projects running for a duration of 3 to 5 years, as 1-2 year interventions will not produce sustainable outcomes. Furthermore, the NRG devoted a significant amount of time *‘to building trust through meetings, ongoing communication and physical presence in project areas’* (Pellegrini and Venugopal 2013, 13).

iii. Collective action through community organizing

When an abundance of wildlife in adjacent protected areas threatened the livelihoods of the people of Garba Tula District in the Eastern Province of Kenya, they decided in 2009 to act to address the problem. The people chose a participatory approach *‘to protect, conserve and manage their land, water, animals and plants so that they can use these natural resources to improve their lives’* (Kutegeka and Roba 2013, 32). Land rights in this district is held by the County Council, so the community appealed to customary laws, which favoured a more inclusive tenure regime to engage the council in dialogue over land rights. The community received assistance from biodiversity conservation NGOs (see IUCN 2011). In addition, communities can demand accountability *‘through covert and subtle form of resistance’*; *‘through more rigorous political representatives’*; and through decision makers adopting a *‘culture of participation’* (Kutegeka and Roba 2013, 26, citing Gaventa and Robinson 1999). Where there is fear of reprisals for demanding accountability, interlocutors and community paralegals from civil society organizations, are helpful (see MBOSCUDA 2013, Fox 2014).

iv. Adoption of voluntary standards

Voluntary accountability standards are adopted by business to boost their image and social license to operate in local communities (Klein 2012, December 28, Yates and Horvath 2013, Morrison 2014, September 29). A very influential voluntary accountability standard is the Extractive Industry Transparency Initiative (EITI) set up in 200 with its international secretariat in Norway. The EITI is guided by a set of 12 principles, of which Principle 1 asserts that natural resource

wealth is good for economic growth and sustainable development, but could lead to negative social impacts if poorly managed.¹⁷ The principles acknowledge that governments are the primary duty bearers over natural resources, and commit to high standards of transparency and accountability among their members to citizens in countries where they operate. The EITI does not just require business in the oil, gas and mining sectors in their 51 member states to be transparent about their operational procedures and financial dealings, but to also be transparent with respect to their beneficial owners – those who own and benefit from ownership of these businesses. This is information that is *‘hidden behind a chain of corporate entities’* and *‘contribute to corruption, money laundering and tax evasion in the extractive sector’* (EITI 2016, 20).

v. Independent environmental and social assessment instruments

Independent environmental and social assessment instruments are tools for vertical accountability, developed independent of government and business, and can be used by citizens, community groups and other third parties to assess the environmental and/or social performance of government and business, in order to hold them accountable for the environmental and/or social impacts of their actions. One of the more comprehensive independent environmental assessment instruments is the Environmental Performance Index (EPI) (Hsu 2016).

This is an index that is used to rank the environmental performance of 180 countries in the world. The EPI framework consist of 2 components, 9 criteria or issues, and 19 key indicators (see Figure 2). The EPI was developed jointly by Yale and Columbia Universities in the USA, and results from their assessment is published annually as the ‘Global Metrics for the Environment’.¹⁸ The EPI framework and methodology can be adapted by citizens’ and civil society organizations in their environmental accountability initiatives.

Other standards instruments available to citizens for use as environmental accountability tools include the Checklist of Species linked to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Checklists),¹⁹ the IUCN Red Lists of Threatened Species,²⁰ the World Resources Institute (WRI) Environmental Democracy Index (EDI),²¹ and the World Wide Fund for Nature (WWF) Protected Areas Benefits Assessment Tool (PA-BAT).²² These can be utilized during public hearings for business licensing, and community-government dialogues for sustainable use of natural resources.

Independent environmental assessment instruments are useful for citizen driven accountability of powerful actors for their environment impact, especially in context where government fails to draft strong regulations and or enforce

those enacted to guide business operations (Stavins 1998, Matten 2003, Baker 2007, Blühdorn 2007).

Popular social accountability instruments available to citizens and civil society include the Transparency International's (TI) Corruption Perceptions Index (CPI), and the OXFAM 'Behind the Brands' campaign. TI defines corruption as 'the abuse of entrusted power for private gain' and maintain that transparency requires 'shedding light on shady deals, weak enforcement of rules and other illicit practices that undermine good governments, ethical businesses and society at large'.²³ The index has been published since 1995, and is the basis of TI's annual corruption ranking. The index is calculated based on in-country expert evaluations and surveys, and it is to be used to pressure government, business, and other influential actors to unreservedly take strong decisive actions against corruption. OXFAM 'Behind the Brands' campaign provides civil society the information needed to hold the top 10 food and beverage companies in the world to account for environmental and social impact along their supply chains.²⁴

vi. Self-regulating mechanisms

Self-regulating mechanisms are horizontal peer-to-peer accountability mechanisms. They include safeguard standards that have been developed internally by influential NGOs, and also self-regulating mechanisms by business to guide their operations so as minimize their social and environmental impacts. Self-regulatory accountability mechanisms on the part of influential NGOs includes the WWF Environment and Social Safeguards Integrated Policies and Procedures, and the IUCN Environmental and Social Management System (ESMS).

Business has used self-regulation to protect its social license to operate around the world. In response to calls from civil society from business to be more responsive to social and environmental demands from society, the World Business Council on Sustainable Development (WBCSD) held its first stakeholder dialogue on corporate social responsibility (CSR) in 1998. In its report following this dialogue, the WBCSD acknowledges that CSR requires 'the interaction

Figure 2: Yale and Columbia University environmental performance index framework



Source: Hsu (2016)

of the corporation with the legal and social obligations of the societies in which it operates, and how it accounts for those obligations' (Watts and Holme 1999, 3).

The chemical industry's Responsible Care initiative is one of the most comprehensive self-regulating and horizontal accountability mechanism (Berland and Loison 2008). Responsible Care was set up by the Canadian Chemical Producers' Association (CCPA) in 1984 and adopted by the American Chemistry Council (ACC) in 1988 (Moffet, Bregha, and Middlekoop 2004, ACC 2016a). Responsible Care was started in response to the very negative image of the chemical industry due to high profile incidents like the Union Carbide Corporation (UCC) Bhopal tragedy of 1984 in India, which killed at least 3,800 people (ICJB 2016).

Adopting Responsible Care is a condition for membership in both the CCPA and the ACC (King and Lenox 2000, Moffet, Bregha, and Middlekoop 2004). Responsible Care has 12 guiding principles, Principle 9 calls on Responsible Care members 'to communicate product, service and process risks to stakeholders and listen to and consider their perspectives'.²⁵ The ACC claims that from 1988 to 2014 Responsible Care companies reduced releases of hazardous waste to the environment by 74 percent, and from 1992 to 2016, has reduced their greenhouse gas intensity by 29 percent (ACC 2016b). In 2006, the Responsible Care Global Charter was launched at the UN International Conference on Chemicals Management, held in Dubai, by the International Council of Chemical Associations (ICCA) (ICCA 2009). Responsible Care has been adopted as a self-regulatory standard by the chemical industries in 65 countries around the world.²⁶

vii. North-South alliances

Organizations like the International Work Group for Indigenous Affairs (IWGIA)²⁷ based in Copenhagen, Denmark, provide an international platform for groups in the northern and south hemispheres to collaborate in demanding accountability from powerful actors on issues of concern to indigenous peoples such as land grabs.²⁸ These types of alliances are critically important for civil society groups in the global south who are not as well-resourced as their northern counterparts (Brehm 2001). Other important groups that follow a decentralized network pattern of north-south alliances and bridge building for activism that hold powerful actors to account for the social and environmental impacts of their decision making include Friends of the Earth International (FoEI) and La Via Campesina – the international peasants movement widely recognized as an important voice in global food and agriculture sector protest movement.²⁹

viii. Media campaigns

Media campaigns to hold powerful actors to account for the social and environmental impact of their decisions have be-

come a regular occurrence given the plethora of media outlets today from the regular print media to innumerable internet based outfits. This has made it possible in recent times for a community forest group like the Ekuri Initiative in Cross River State, Nigeria, to oppose plans by the state government to build a super-highway that would negatively impact their community forest. Ekuri Initiative's campaign was quickly given global exposure through internet platforms like Facebook, Mongabay³⁰ and the New York Times.³¹

In the USA, the Standing Rock Sioux, a Native American tribe, have been protesting construction of a petroleum pipeline across their ancestral lands, showing how this will contaminate water resources on its path. Media coverage by the powerful major news outlets in the USA have quickly given their cause plenty of support in the USA and in Europe, which might not have been the case without big media coverage.³² Media campaign is an effective instrument for engaging the public in support holding powerful actors to account.

5. RECOMMENDATIONS GOING FORWARD

Accountability requires powerful actors to accept responsibility and answer for their actions with respect to social and environmental outcomes that accompany their governance of forests, fisheries, land, water, and extractive resources. Powerful actors in the context of this paper are governments, big business, influential local and international NGOs, traditional chiefs, multilateral and bilateral donors, and private donor foundations. Governments are the primary duty bearers for human rights obligations and are responsible for ensuring against environmental damage, while local people or citizens are the primary right bearers to whom government should give account. Citizens can hold government to account either through vertical, horizontal or diagonal accountability processes.

The accountability practices that citizens can draw upon to hold powerful actors to account include formal and judicial accountability mechanisms and social accountability initiatives (SAIs for short). SAIs complement formal and judicial accountability mechanisms, especially where formal procedural downward accountability by government and other powerful is weak and or non-existent. Formal accountability processes work best where there is rule of law, and government is not hesitant to get tough in regulating the activities of other powerful actors in the natural resources sector especially big business. SAIs work best when there is a two-way dynamic participatory relationship between government and its citizens. If government is overly repressive, preferring a one way top down information flow relations with society, citizens and civil society would find it impossible to collectively demand for accountability.

The key challenges related to accountability of powerful ac-

tors in natural resources governance (such as government, business, local and international NGOs) to local people, include weak political will on the part of government – the principal duty bearer for responsive governance of natural resources, weak local capacity for collective action to demand accountability, a lack of resources by civil society organizations in developing countries, and a weak regulatory regime to move business towards supply side accountability.

Good practices to overcome these key challenges to effective accountability relationships include establishing grievance mechanisms and ombudsman, citizen tracking of government revenue and expenditure, promoting collective action through community organizing, adoption of voluntary standards by powerful actors set by third parties, utilization of independent environmental and social assessment instruments by civil society to audit the activities of powerful actors in the natural resources sector, adoption by powerful actors of self-regulating mechanisms, north-south alliances of NGOs to strengthen weakly resourced NGOs in developing countries working to hold powerful actors to account, and media campaigns against powerful actors to compel them to answer for their actions with respect to natural resources governance.

A word about powerful business actors – governments usually hesitate to effectively regulate business (Matten 2003), and sometimes lack the capacity to enforce regulations (Paddock 2004), therefore preferring voluntary and self-regulation of business. However, business tends to promote a selective record of its activities, which excludes wrong doing; consequently citizens and civil society demand for social and environmental accountability from business be-

comes an effective incentive for business to be responsive to societal concerns.

Social accountability initiatives by citizens and civil society require long-term donor support for it to be sustainable, especially in countries where they have been historically disenfranchised from decision making. The World Bank recognizes this and has set up the Global Partnership for Social Accountability (GPSA), and the British government through DFID has been funding the Governance and Social Development Resource Centre (GSDRC) to support social accountability initiatives around the world through knowledge and information sharing.³³

In conclusion, accountability is an essential principle for establishing a rights based approach to responsive natural resources governance by powerful actors made answerable to local people, for the social and environmental outcomes related to their decision making and activities. While formal procedural accountability mechanisms remain important internal norms for holding powerful actors to account, citizen driven accountability initiatives are now an integral external means of complementing internal accountability processes of governments, and the voluntary and self-regulating efforts of business and influential NGOs. Supporting citizens' accountability initiatives empowers civil society to hold powerful actors to account through external means, while contributing to strengthening formal internal procedures. Supporting citizen driven accountability in vertical, horizontal and diagonal accountability processes, is therefore a reliable way to ensure that powerful actors in natural resources management are held accountable for the social and environmental outcomes of their decision making and actions.

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ENDNOTES

¹ The minority view is that diagonal accountability is 'administrative accountability, exercised primarily through quasi-legal forums, such as ombudsmen, auditors, and independent inspectors reporting directly or indirectly to parliament or the responsible minister' (Stapenhurst and O'Brien 2005, 4), this is different from vertical accountability because the administrative oversight body is not in a hierarchic relationship with the body it is monitoring and has no powers of sanction or power to enforce compliance; these oversight agencies assist the executive and legislative branches to more effectively control the bureaucracy (see also Bovens 2007).

² See United Nations (n.d.).

³ See Worldwide Governance Indicators (World Bank 2017).

⁴ See IAMNet (2017) for more information.

⁵ The NDB was established on July 07, 2015 by the BRICS (NDB 2017).

⁶ See Bretton Woods Project (2016, April 5).

⁷ See Accountable Now (2017).

⁸ See Independent Sector (2017).

⁹ See WWF (2017b).

¹⁰ See IUCN (2017a).

¹¹ See Open Government Partnership (2017).

¹² See <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan045180.pdf> and also <http://go.worldbank.org/Y0UDF953D0>

¹³ See GPSA (2017).

¹⁴ See ABA (2012).

¹⁵ A picture album showing the environmental devastation of the Niger Delta is available here (Images 2017).

¹⁶ This is the Niger Delta Citizens and Budget Platform NDCBP (2017).

¹⁷ See EITI (2017).

¹⁸ See EPI (2017) for annual reports and datasets.

¹⁹ See CITES (2017).

²⁰ See IUCN (2017b).

²¹ See IUCN (2017b).

²² See WWF (2017a).

²³ See Transparency International (2017) for a description of corruption.

²⁴ See OXFAM (2017).

²⁵ See ACC (2017).

²⁶ See ICCA (2017).

²⁷ See IWGIA (2017b).

²⁸ See IWGIA (2017a).

²⁹ See La Via Campesina (2011, February 9).

³⁰ See Goworecki (2016, November 2)

³¹ See Ingle (2016, November 3).

³² See Monet (2016, December 4).

³³ See Combaz and Mcloughlin (2014), GSRDC (2017).



IUCN is a membership Union composed of both government and civil society organisations. It harnesses the experience, resources and reach of its 1,300 Member organisations and the input of some 15,000 experts. IUCN is the global authority on the status of the natural world and the measures needed to safeguard it.

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