

MULTI-SECTOR CAPACITY NEEDS IN CHALLENGING THE RESOURCE CURSE IN CONFLICT-AFFECTED COUNTRIES

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Abstract

The resource curse has received significant attention and findings that strong institutions are most lacking has contributed significantly to advancing a way forward. While recent literature highlights government institutions as the target for improvement, capacity building for other stakeholders involved is also important, so as to avoid the risks of capacity imbalance among stakeholders—which could aggravate the resource curse. This article examines the capacity needs of these other stakeholders. The paper highlights that while improving institutional capacity is greatly needed, improvement in stakeholder understanding of the real constraints and opportunities involving natural resources exploitation, and the ability to operationalize this understanding, should be primary objectives as well. This paper examines capacity needs and potential alternatives for law, rural civil society, domestic and international investors, as well as government and suggests possible options.

Introduction

In a variety of conflict-affected countries revenue from high-value natural resources—oil, natural gas, minerals, gemstones, timber and others—are an important and integral (even dominant) segment of the economy, and provide significant revenue to state budgets (Bruch et al., 2011). While well managed high-value natural resources can be important in financing recovery and development, when mismanaged, revenues from resources can significantly weaken economies and governance, and greatly increase the risk of violence in what are known as variations of the 'resource curse' (e.g., Alao 2007; Cabrales & Hauk, 2010; Karabegović, 2009; Lujala & Rustad, 2012).

Recent literature highlights that greater capacity in government institutions is what is needed in challenging the resource curse (e.g., Cabrales & Hauk 2010; Karabegović 2009; Mehlum et al., 2006). This article argues however that the capacity of multiple stakeholders and institutions involved in high value natural resource extraction, processing, marketing and management of revenues, is of fundamental importance in turning the curse into a benefit for broader society. Furthermore, capacity building in one sector, government for example, and not others can actually enhance the resource curse effect through a capacity imbalance. This imbalance, whereby one set of stakeholders enjoys significant capacity while others experience lower and frequently much lower capacity, can result in corruption and exploitation due to a lack of effective checks and balances that would otherwise emerge between sets of near-equal stakeholders. The resulting animosity due to this imbalance can have profoundly negative outcomes as the lower capacity set of stakeholders realize the imbalance and experience its repercussions.

This paper examines specific capacity needs and potential opportunities for fulfilling these among different institutional sectors involved in high value natural resource extraction in developing countries, with a focus on conflict-affected states. Following an elaboration of capacity needs and approaches for the sectors of government,

law, rural civil society, domestic and international commercial investors and institutions, the paper concludes with a section on mapping a potential way forward.

Capacity Building: A Framework

Figure 1 presents a general framework that maps out the primary actors needing capacity building, and the primary components that have important roles for future options. These are addressed in separate subsections of the paper that discuss in more detail what the needs are, approaches that may be considered, and how the actors relate to each other (grey arrows in Figure 1).

The components with important roles for a way forward (black boxes in Figure 1) include donor agencies, spoilers, the Kimberly process and other verification mechanisms. These are described in separate subsections within the paper, including their relationship to the actors and their capacity needs (black arrows in Figure 1).

Capacity Needs and Approaches

Addressing capacity needs in various sectors that intersect with natural resource exploitation requires approaches that are tailored to the sector. This section looks at the capacity needs of 1) government at different levels, 2) law and enforcement (as distinguished from government), 3) rural civil society, and 4) the capacity improvements needed on the part of domestic and international investors and their partners.

Capacity in Government

In conflict-affected countries, the capacity to establish commodity-tracking systems, renegotiate contracts, come to agreements on revenue-sharing arrangements, and effectively invest resource revenues depends, to a significant degree, on the quality and capacity of governance (Rustad et al., 2012).

Staged Capacity Building

Ideally institutional capacity building in government should come prior to resource exploitation, so that exploitation does not have disruptive effects on government and society. However governments, international donors and investors can often fail to understand this need until contracts have already been issued. When capacity building does take place often is it much slower compared to the development of the resource extraction project (Rustad et al., 2012).

While extensive institutional capacity building for government in conflict-affected settings all at once is often unrealistic (and potentially destabilizing), various incremental strategies can be used to build capacity in government institutions (Rustad et al., 2012). A staged strategic approach to institutional capacity building that focuses on a few select institutions such as those that are most important for specific resource management needs or responsible for certain resources can be quite effective (Rustad et al., 2012). For example, Liberia's post-conflict forest sector reform was undertaken

as one of the requirements to lift United Nations sanctions, focusing specifically on enhancing institutional capacity in the Forestry Development Authority (FDA) (Altman, Nichols, & Woods, 2012). Another approach to incremental capacity building is to first gain experience in awarding smaller concessions and managing smaller resource projects and then later awarding larger projects as experience is gained. Again in the case of Liberia, the first timber contracts after the war were for only three-year licenses, exploiting less than 5,000 hectares. Once significant experience had been gained in this process, subsequently larger awards were put out for bid (Altman, Nichols, & Woods, 2012).

Parallel Extraction and Institutional Capacity Building in Peaceful Zones

A different strategic capacity building approach in conflict-affected settings is to first develop extraction capacity along with institutional capacity in the more peaceful regions of a country. This may be difficult in cases where many unofficial small-scale stakeholders exploit resources manually. However attempting to ban small-scale efforts could have negative repercussions on local livelihoods (Rustad et al., 2012).

Customary Institutions

Involving customary institutions in capacity building for government can be a valuable approach. In many cases state institutions that deal with resource extraction in conflict-affected states are crippled, corrupt, not legitimate, or nonexistent. In such situations, working to purposefully include customary institutions that are able to garner legitimacy from the local population, and place these institutions within the statutory legal system can be a very worthwhile consideration. At the same time, providing forms of state legitimacy to certain customary institutions can be a shortcut to building capacity in institutions. Ethiopia has had particular success with this approach in its restive regions. In the Somali Region, specific customary institutions of elders and leadership were provided with state legitimacy as a way to resolve a variety of societal issues, including those involving land and resources. Increased recognition of Somali customary institutions by the Ethiopian state as national policy has meant that the *Guurti*, a traditional council of Somali elders, was instituted formally at different levels in regional government. An official *Guurti* comprised of elders was instituted at the regional level (36 members), at the zonal level (seven members), and at the smallest administrative unit, the woreda level (three members). These council members receive salaries from the government and advise on government policy. While not all in the Somali Region see this arrangement in a positive light--some believe it is a co-opting of Somali institutions--others see it as empowering these institutions.

Capacity in Law and the Problem of Enforcement

Building capacity in law occurs in parallel with building capacity in government institutions and these two can act together and reinforce one another. In conflict-

affected settings, legal capacity building should prioritize transparency, accountability, representation, and equity (Rustad et al., 2012). This will help prevent specific interest groups from capturing resources and/or revenues and also reduce the risk of restarting conflict. Some of the conflict-related legal capacity building approaches that have experienced success are illustrated below.

Land and Resource Policy Reform

Land and resource policy reform includes a broad-based process of interaction with communities and other sectors (ex-combatants, internally displaced persons, refugees, commercial interests, local and regional government, etc.). It is usually undertaken by a consortium of donors together with a government which itself does not have the capacity to undertake such an endeavour. Land and resource policy reform after crises (especially after wars) is an involved process, needing a good deal of capacity building, coordination, political will, donor involvement, money, and time (usually years). It is generally beyond the mandate of the United Nations to carry out such a multi-faceted reform process on its own. Partners in the international community are usually sought for both capacity and financing (i.e. World Bank, the US Agency for International Development, the Canadian International Development Agency, etc). Since this is a significant legal reform and national capacity is frequently quite low at the beginning of the process, expatriate staff can often be used for a period of years (Unruh, 2008).

Capacity Building in Legal Actions Aimed at Specific Problems

This approach is much quicker than land and resource policy reform. It is more easily achievable with government and donor in-country support—albeit with less scope than national land and resource policy reform. Specific legal actions that are able to attend to certain resource-related problems in a crisis context are useful for the management of such problems until a broader policy reform effort can be considered. Examples of such actions include:

- a. Legal decrees that focus on specific society-wide land issues and are also quickly derived, and then terminated when the objective is obtained, constitute an important connection between capacity in law and local livelihoods. Decrees can be used to temporarily manage resource speculation, fraud and evictions, and to validate or invalidate specific forms of claims that are proved to be destabilizing. Decrees and their effects are largely seen as temporary, to be replaced by more robust forms of law later.
- b. Legal rulings are useful for resolving specific and potentially volatile problems for certain post-war communities. Liberia's experience with the problem of adverse possession (uncontested occupation of land or property for a specified period of time which then results in legal ownership), dealt with the question of whether or not the war-time and post-war periods should count as part of the period of 'uncontested occupation' needed for ownership claims. This affected

squatters in long-term occupation situations but also returning commercial interests and individuals with titles to valuable real estate who fled the war early and then returned. In such a situation, if there is no clear legal ruling on the issue, powerful interests can seek to violently evict squatters who are claiming, or may be about to claim, ownership under adverse possession.

- c. Rendering legal decisions that affect or resolve an entire category of land and property claims and/or dispute problems can be a useful approach. Both Liberia and Mozambique have had positive experiences with this tactic. The Sirleaf administration in Liberia cancelled all of the forestry concessions as a legal decision because they were so fraudulently acquired. Mozambique dealt with large numbers of problematic land claims issued before and after its war; involving for example, 1) whether or not Portuguese colonists or their descendants would be able to return to lands, 2) the need for concession holders to reapply under new rules that included more adequate interaction with local communities, and 3) the cancellation of certain categories of concessions due to fraudulent acquisition.
- d. Another approach is the application of specific articles of existing law in order to contribute to the resolution of immediate problems. This can include use of certain articles that are part of pre-crisis laws, even if generally such laws are unjust or were part of the cause of the conflict. In Sierra Leone, the extreme avoidance of agricultural renting arrangements by landowning lineages was due to a fear that such renting would turn into permanent forms of ownership claims by the tenants, and that the lineages would be unable to get their land back at the end of the rental agreements. The overall result in Sierra Leone was a serious food insecurity problem due to the very large areas of unrented uncultivated land. In such a case, the simple 'right of reversion' is an article of law found in many countries (including pre-war Sierra Leone) and could be applied specifically and quickly to the leadership of landholding lineages as a first step in assuring them of the return of any rented land. The landholding lineages would be in a 'secure enough' tenure position so as to feel little risk in renting land. While enforcing a single article of law for some segments of a population and not others might be problematic in a stable setting, and could even be seen as the state being partial to one group, in a conflict context, speed, capacity and enforcement problems, and acute land and food security problems, makes this option a viable consideration (Unruh, 2011).

Specificity in Legislation

Legislation governing resource management should be as specific as possible. In Iraq vague and conflicting constitutional provisions regarding the granting of oil exploitation rights have resulted in serious conflicts within government at the central level and between different levels of government, thereby worsening post-conflict instability (Al Moumin, 2012). Such laws should clearly state which entities are in charge of allocating exploitation rights, and how income is to be shared (Haysom &

Kane, 2009). With regard to resources such as oil and gas fields, it is important to specify if the relevant legislation refers only to fields that are currently producing, or to all known reserves, or to all current and future reserves, so as to avoid disputes and confrontation. Both Aceh and Iraq are examples where specification has not happened, with significant negative repercussions (Wennmann, 2012; Al Moumin, 2012).

While there have been various attempts at putting small-scale stakeholders on equal footing with large-scale stakeholders in land resource scenarios so that equitable deals can be worked out, the problems with connecting customary and statutory law have been daunting. Mozambique however has pursued an approach with positive results. In this case statutory law puts customary occupation (based on customary evidence) on equal footing as formal title, with one not prevailing over the other. This puts the large-holder interest in the position of needing to negotiate directly with smallholder communities over the exact nature and forms of rights that are to be enjoyed by the large-holder. In Mozambique the lack of capacity at the state level to resolve disputes between large and smallholders has meant that resolving disputes out of court has become quite robust, with the development of significant capacity (Unruh, 2005). While this capacity resides with the now many NGOs that are able to assist local community leadership with understanding the law and negotiations, it also has developed with large-holder investors, who are able now able to interact with smallholder communities in a more effective way.

The Enforcement Problem

While building legal capacity should be a priority, even when laws are in place it can be difficult to have people abide by them, particularly in conflict-affected settings. This highlights the importance of enforcement. However enforcement in war-affected settings is highly problematic. The primary dilemma is that the enforcement of formal law depends on the direct or implied threat of forced coercion such as police, courts, and prisons (Sarat & Kearns, 1990). This is particularly the case in laws relating to land resources (Blomley, 2003). While such a threat may be expected to have the desired outcome with populations generally accustomed to peace and wanting to retain it, for postwar populations this is more difficult. For the latter the threat of forced coercion connected to enforcement will be much more distant and much weaker than the actual force in the form of violence recently experienced in the conflict itself, thus considerably reducing the utility of the threat with regard to compliance. Of particular concern is that the likelihood for a return to open violence for some groups--ex-combatants, warlords, those who seek to gain economically and politically--can be quite high after a war (Kamphius, 2005). This can particularly be the case when armed groups involved in the exploitation and trade of certain land-based resources emerge as powerful micro informal rule-makers of law systems, and can express considerable reluctance to formalize their activities, especially if they see themselves as losing in the peace process (Kamphius, 2005). The latter notion risks broadly becoming the case if such enforcement ignores local community perceptions of justice and participa-

tion which can in turn compromise efforts at getting local populations to 'buy into' national reconstruction (Unruh, 2008). Legal capacity building in conflict-affected situations should take this enforcement problem into account, and focus on laws and their corresponding institutions that already have legitimacy within society. Laws and legal actions by the state should also include incentives for compliance, as opposed to only the threat of negative implications through enforcement.

Consultation as a Form of Capacity Building

Consultation with local communities is widely regarded as a way to include input from local communities into the formal law reform process and is a primary form of interaction between government and local communities. It should be considered in legal capacity building efforts. Building the needed capacity among government and NGO actors to be able to carry out consultations is valuable, as is the added capacity building that comes about when community members learn about how statutory law works through the process. Community members also have the potential to learn what the connections and similarities are between customary and statutory law.

Social Science Research and its Linkage with Derivation of Laws and Regulations

Tailoring specific legal remedies to problems as they arise contributes to the capacity of the legal domain. In conflict-affected settings the specifics of the problems of resource rights, access, and exploitation can be difficult to predict. Such problems are usually not attended to by legal approaches that are derived for stable socio-political conditions. As a result there needs to be an ability to conduct ongoing research into land resource related problems as they manifest themselves, and derive legal remedies and communicate those to the law-making agencies in government. The ability to do this is best situated at a national university so as to be able to operate with autonomy and to have access to researchers. In East Timor and Mozambique social science research centres were created and funded by the international community, with the purpose of being able to conduct research on socio-legal legal problems within the population and to work with the relevant ministries to construct legal remedies. Such a research ability can provide ongoing capacity building for university researchers, students, and ministry personnel so as to build capacity in the legal domain generally.

Capacity in Rural Civil Society

Capacity needs for rural civil society with regard to exploitation of natural resources in community held areas is one of the larger challenges. In the legal domain, there has been a profound lack of authoritative interpretation regarding the rules of customary law, and this is the primary reason why customary law (and customary capacity) in many countries have not responded or adapted to the social and economic changes which have taken place with regard to resource exploitation (Unruh, 2008). As a result, customary laws and capacity have remained largely in an isolated, stagnant, and often undeveloped state with regard to dealing with commercial firms inter-

ested in the exploitation of natural resources. Often the various customary courts interpret law according to the traditions and mores of the tribal community within its jurisdiction and with little exposure to other interpretations. This lack of exposure of customary laws to statutory laws and the customary laws of other groups is the core of the problem for customary institutional capacity and where improvement is greatly needed. This is particularly the case following conflict because legal and capacity isolation is much more pronounced during the years of war. As a result, interacting with commercial interests after a conflict can reflect unrealistic expectations (Unruh, 2008).

Local community leadership is an important subset of civil society where targeted capacity building would achieve a good deal. There can often be a lack of realistic expectations on the part of local communities in terms of what they are able to obtain from commercial interests operating in their areas. Local leadership plays a large role in this and a more realistic set of expectations on the part of community leaders would go a long way toward enhancing negotiation with government and commercial interests.

Tenure Security for Investor versus Smallholders

The need for land resource tenure security for both investors and smallholders in a resource exploitation setting is crucial. However the forms this security takes is different for commercial interests versus smallholders, and capacity is needed in order to appreciate and support both. Commercial interests need tenure security that will allow them to invest considerable physical infrastructure without being concerned that they will be evicted once the investments are made. They need tenure security for land areas where operations are located and resource tenure security regarding the specific resource they are exploiting. Often such security can be provided by leasing or license instead of private ownership. However commercial interests can often prefer private ownership of lands, believing that only then can their investments be secure. International investment interests in particular can interpret the presence of smallholder communities on lands they have been granted exploitation rights to, as a threat and a sign that their rights are being violated. As a result they can call on the government to enforce the exclusion of local communities.

Smallholder communities are concerned with the permanent loss of lands, homelands, and forests, grasslands and agricultural products for their broader groups: tribes, lineages, or clans. While smallholder communities can interact with commercial interests in ways that will allow temporary access to the lands and resources being exploited, their ways of keeping any agreement with commercial interests binding is usually through the establishment of ongoing relationships involving obligations on the part of the commercial interest to provide communities with ongoing benefits. While commercial interests view contracts and agreements about resource extraction to mean the transfer of resource ownership from the original owner to them, local communities can see such agreements in the context of the commercial interests be-

coming part of the local community and subject to the provision of needs for the local community.

The commercial interests need greater capacity with regard to how local communities work, and how they reason with regard to resources that in many cases they claim. There also needs to be greater capacity on the part of investors with regard to the degree of security they can actually expect by trying to privately own the lands and resources they intend to exploit but that are claimed by others. Leases may in many cases be more secure than an attempting outright ownership, as they do not exclude (and therefore anger) local communities. Local communities need greater capacity with regard to their ability to participate in contracts and agreements, and how investors think about resources and their exploitation.

Functioning of Government and Commercial Interests in Rural Area Extraction

A great deal of improvement is needed with regard to how government and commercial interests function in the process of resource extraction in rural areas, particularly when engaging with local communities. This engagement is significantly important to building support for extractive projects and the establishment of the legitimacy of resource extraction activities (Rustad et al., 2012). Although resource sector capacity building efforts often identify transparency and inclusion of different sectors of society as goals, the implementation record is mixed and negative outcomes are common. Communities depend on resources for their livelihoods and the failure on the part of government and commercial interests to engage the public in resource-related decisions can lead to significant problems. When the public is engaged in decision-making, the long-term legitimacy of the operation can be improved. This can have benefits as well for institutions, laws and regulations that manage natural resources (Bruch et al., 2012). Thus stakeholder consultation is important not just for the expression of stakeholders' concerns and needs, but it is also crucial to build trust and a sense of ownership in the resource extraction arrangements and agreements (Carius & Maas, 2012). Effective public engagement on the part of government and commercial interests means interacting with small-scale stakeholders during the beginning of project development, and requires ongoing dialogue and interaction regarding negative repercussions of the extraction process, benefit-sharing arrangements and the expenditure of the money that goes to communities (Rustad et al., 2012). Making this actually happen however requires domestic laws that mandate informed and prior consent and consultation.

There are a couple of approaches that can improve the functioning of government and commercial interests in resource area extraction. One approach is the 'resource compact' (Le Billon, 2008), which can enhance the capacity for constructive engagement among stakeholders in addition to improving regulatory capacity. The compact is essentially a forum that is able to both build consensus through participatory decision-making and inform civil society by establishing a public forum to discuss the issues relevant to the extractive sector. For example at the global level the UN

Global Compact encourages corporate social responsibility in the context of post-conflict recovery by proposing practices that improve security, economic development, and local relations while at the same time trying to deal with corruption, grievances, and human rights abuses (UNGC & PRI, 2010). The Niger Delta is an example where the use of a resource compact is being tried, however a lack of the needed political will is preventing its full establishment (Mähler, 2012; Rustad et al., 2012).

Addressing Rural Civil Society Capacity: Radio and Other Dissemination Programs

Dissemination of information regarding how extractive commercial operate and what they can realistically provide to local communities, can go a long way toward building the capacity of civil society generally and local leadership in particular. It can also help to deal with rumours, which can be a primary source of conflict. Information dissemination can be difficult however given the remoteness of resource extraction areas and the dispersed settlements, along with literacy and other educational obstacles. Radio programs conducted by government or an independent NGO can be important in this regard. Such a dissemination program needs to be ongoing and can include programs that seek to address specific problems that communities may have with regard to commercial interests and how they operate. A knowledgeable person taking questions from the local community is a format that has worked in some UN operated programs.

Capacity for Domestic and International Investors and Partners

The Need to Tailor Investment Approaches to Local Realities

International interests can often be in particular need of capacity building in terms of how to deal with local communities and how to tailor their operations to the local reality. This capacity building needs to include how local communities think about land and resources, how to make agreements binding from the perspective of local communities, and what benefits to provide to local communities in order to avoid problems with community members who did not agree to the investment, or who were not consulted.

Domestic and international firms will find that in their areas of operation they will likely be the organization with the most capacity in terms of security, health, education, infrastructure and service provision, and that they can be called on by the local community who may desire to access this capacity. In many areas government (who should provide such services) is absent or has a low capacity to respond and provide the services that are needed by the local population. In Angola as in many other post-conflict countries, weak institutional capacity on the part of government can require that private companies step in (or are drawn in) to fill the vacuum. In particular, where local populations have been excluded from formal contract negotiations, commercial interests often become responsible for pursuing a 'social license to operate' from local communities. If they are not able to do this they risk long-term challenges to their op-

erations. Thus company to community relations can be central to preventing and resolving local grievances (Boege & Franks, 2012).

The Need to Innovate in Leasing Approaches, Extraction, and Commodity Trade

The responsibility for making resource extraction operations work successfully in smallholder settings will be most often be born by the commercial interest. However it is easier for these interests to derive innovative ways of dealing with local communities than it is for communities to learn how commercial interests work in the Western European or Chinese model. While local communities need capacity building, commercial interests need considerable capacity building themselves with regard to dealing with local communities and the need to innovate in terms of approaches, agreements, payments, how rights and resource security are divided and combined, and how resource exploitation arrangements are made binding and documented. The significant capacity on the part of the commercial interests in terms of law, science, and business operations should allow this innovation to occur, and yet it by and large does not. There are a great many ways of managing resource rights that can both achieve investor goals and support local community aspirations. The problem for companies however is that this requires time and labor that are not part of operating budgets.

Commercial Interaction with Government and Local Communities

Although commercial extractive interests have, through their greater capacity, primary responsibility for company to community relations, governments are likewise responsible for providing commercial interests with an opportunity and a requirement to act reasonably and prioritize the development of good relations with local communities (Boege & Franks, 2012). In this regard commercial interests need to be granted enough time to assess the on-the-ground context they will be operating in and to engage in the necessary consultations with local communities before they begin the physical and logistical phases of a resource extraction project. However the time that a company will need to have to conduct a participatory social impact assessment is usually much longer than what the government often allows (Boege & Franks, 2012).

Mapping a Way Forward

Shortcuts?

While broad capacity building of all actors (e.g., investors, civil society and government) is desirable it is usually unrealistic in the timeframe of resource exploitation priorities and processes, and in particular given the other needs that prevail in a conflict-affected context. More focused approaches are needed to attend to near-term capacity problems in conflict-affected countries. Where tensions are high, it can be dangerous to build capacity for a party that resides on only one side of a set of tensions and not the other. At the same time if one side enjoys enhanced capacity over another, then the prospect for taking advantage of the lower capacity actors is greater.

The UN has done considerable work on capacity imbalance, particularly in the context of peace negotiations that high value resources are usually always a part of. One shortcut in acute settings would be to enhance the capacity of the opposed sets of actors, who would be able to act as checks on one another. Another would be to begin capacity building with the lower capacity party. Of course one caution in doing this would be the perception of taking sides. By selecting specific issues that are the subject of high tensions, and building capacity on both sides of the issue, a targeted capacity building effort can be deployed, while at the same time contributing to peace building.

Donor agencies

Since the early 1990s, governments, international agencies and donors have become increasingly involved in the natural resource sector and its exploitation. For example, the UN Security Council has issued resolutions pertaining to resource sectors, along with the imposition of sanctions and supervision regimes (Rustad et al., 2012). United Nations peacekeeping missions have occasionally administered, in a transitional way, the natural resource sector, as in East Timor and Kosovo. In addition, specialized UN agencies, the UN Food and Agriculture Organization, the UN Development Program, and the UN Environment Program are becoming more active in reforms of institutions and capacity building in many conflict-affected countries, such as the DRC, Sudan, and Sierra Leone. Both the World Bank and the International Finance Corporation (IFC), have provided significant support for resource management reform and assistance, for example with the drafting of the mining code in the DRC (Rustad et al., 2012).

A number of donor agencies actively and directly engage in encouraging reform of the extractive resources sector. USAID has programs to promote awareness of certain conflict commodities, such as timber, while the UK's DFID encourages adoption of the Extractive Industries Transparency Initiative. The International Monetary Fund was among the first to encourage transparency of revenue flows in Cambodia for logging, and in Angola for oil. Regional organizations, like the EU, have pursued improved regulation of market access, most notably for timber (Brack, 2012). The United States and the European Union also participate in the Kimberly Process in the regulation of the diamond trade (Wright, 2012). Conditions imposed by donor nations can be, depending on the situation, an important and time-sensitive instrument in conflict-affected settings (Rustad et al., 2012). In the immediate post-conflict period, when countries are most dependent on external aid, donors can exert a great deal of influence over reform of the resource extraction sector. But while some donors might encourage or pressure domestic authorities to conduct contract reviews and increase transparency, accountability, and public participation, this can be undermined by the role of other important donors and commercial interests.

In some cases specific donors can encourage conflict-affected countries to pursue a quick increase in resource revenues and domestic authorities can choose to by-

pass reform and capacity-building initiatives, hoping that instead the quickly gained resource revenues will resolve the country's problems (Rustad et al., 2012). In a number of cases this has proven to be a significant error, because the combination of weak institutions and a resource boom can easily worsen the resource curse. To avoid such a scenario, donor conditionality should focus on resource sectors, and donors need to provide governments with the capacity to carry out reform. Unfortunately, however, although bilateral donor agencies have significant budgets, little of that money is usually put toward capacity building in government. In Sierra Leone, for example, less than 10 percent of the US \$13 million allocated by the United States and United Kingdom aid agencies on diamond reform was directly used to build government capacity (Le Billon & Levin, 2009). Strictly investment driven interactions with host governments can aggravate the capacity situation by importing their own capacity, sometimes including even manual labor.

One significantly negative influence that can undermine the bilateral donor-host country relationship is the attempt, on the part of donor nations, to advantage the interests of their own nation's extractive commercial interests. This produces two fairly frequently encountered problems, 1) competition among donors with commercial interests, and 2) potential collusion among donors, such as the priority to have the oil sector be completely open to foreign companies. Limited resource exploitation opportunities offered by the host nation to donor nations can indirectly weaken financial, diplomatic, and military support from these donors, who can be less inclined to provide robust assistance to countries that are experiencing a resource boom but do not offer significant trading opportunities. Thus commercial interests, often together with certain donor agencies, may need to compete with each other by offering to build infrastructure in return for access to resources (Le Billon & Levin, 2009). Such a situation highlights the approaches used by China in Africa, which are less donor driven, and more trade driven. The astute host country government however can use such competition to their advantage, by encouraging competing bids that offer an array of benefits to governments and civil society. While some African governments are already quite good at this, capacity building for those who are not would be worthwhile.

The Kimberley Process and Similar Mechanisms

Commodity-tracking systems, which trace the path of high-value commodities from source to production to market, can reduce the value on the market of non-certified commodities by making them difficult to sell (Rustad et al., 2012). The overall idea behind such tracking systems is that they formalize previous informal forms of exploitation, transport and trade and thus can be controlled so as to curtail illegal resource exploitation and direct more revenues toward the state (Rustad et al., 2010).

The Kimberley Process Certification Scheme (KPCS or KP) was created to prevent armed groups from profiting from diamond mining and trade and then using the revenues to perpetuate armed conflict. The KP is the best known and most fully developed of the now several tracking systems (Grant, 2012). One of the most impor-

tant reasons for the success of the KP was that it brought together, as equal partners, members of governments, civil society, and the diamond industry (Wright, 2012; Bone, 2012). The diamond industry's participation in particular was crucial to the development of a process that both diamond producers and traders could agree to and comply with. With the KP initially put in place for Sierra Leone and Angola in 2003, by 2010 less than one percent of world's total diamond flows comprised conflict diamonds. As the number of certified diamond producing sites increased, greater revenue flowed into state coffers, contributing to recovery and peace building (Mitchell, 2012). However according to Mitchell (2012), in countries where certification capacity is low and corruption is high, the process has had less success, highlighting the important role that capacity building has in the performance and effectiveness of the KP.

From the success of the KP, other commodity-tracking schemes were derived. One of these is the Forest Law Enforcement Governance and Trade (FLEGT) initiative of the European Union. This process encourages countries endowed with high-value timber resources that export to EU markets, to comply with a voluntary timber-licensing system (Brack, 2012). In exchange for compliance, the European Union is able to fund forest sector capacity building and institutional development. By August 2011, Cameroon, the CAR, Ghana, Liberia, and the Republic of the Congo had all concluded negotiations with the European Union, and the DRC and Gabon had begun negotiations, with Côte d'Ivoire and Sierra Leone expressing interest (Brack, 2012).

Another certification scheme is the Organization for Economic Co-operation and Development's (OECD) 'Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas'. This guidance is intended for commercial interests involved in mineral exploitation and trade, and is meant to help these interests protect human rights while avoiding contributing to conflict (OECD, 2010). The guidance applies to all parts of the supply chain that reside in conflict-affected and high-risk areas, and specifies the activities that firms need to take to be in compliance, including the following (Brack, 2012):

1. Freezing or stopping trade operations with questionable suppliers;
2. Exercising leverage over suppliers to bring them into compliance;
3. Establishing relationships with local government, which is involved with implementing the standards;
4. Transparently reporting on the findings of due diligence examinations and on the measures taken to guarantee compliance with the guidelines.

The OECD guidance was first endorsed in 2010 by the International Conference on the Great Lakes Region (ICGLR, 2010), an intergovernmental organization that works on sustainable peace and development in the Great Lakes Region.

Another commodity tracking scheme is from the United States and is the 'Dodd-Frank Wall Street Reform and Consumer Protection Act', whose purpose is to curtail the marketing of conflict minerals, such as coltan, and is aimed specifically at the DRC. The act requires any United States company that purchases specific minerals from the DRC or bordering states to engage in a process of due diligence and to provide detailed information about the chain of custody to the public at large and the United States Securities and Exchange Commission (Kersch, 2010). Still a different initiative is the Tin Supply Chain Initiative (iTSCi) of the International Tin Research Institute. This is an industry-based scheme designed to track the tin supply chain, also in the DRC, from the mining location to the export point (Pistilli, 2010; ITRI, 2011).

International 'Spoilers'

While the notion of the spoiler is well known in conflict-affected situations, usually this is thought to be a local, domestic actor who is attempting to, in some fashion, make money off of continued instability. There are however a good number of international actors that can engage in spoiler behaviour. These can be individuals, groups or firms, who seek to connect with whoever appears to have local control over high-value resources, or can facilitate the logistical and power arrangements necessary to extract the resources and get them out of the country. During wartime members of the international mafia were regular visitors to Sierra Leone and Liberia and were engaged in the trafficking of a number of commodities. Semi-legitimate business interests in logging and other forms of extraction also were present during and after the West African wars, and sought to maintain their entrenched positions and control over certain vulnerable points in the supply chain. In addition, certain international commercial interests are quite adept at operating in unstable settings, and while they may or may not themselves engage in spoiler activity, out of necessity they engage in a wide variety of relationships with others who may be reluctant to give up exploiting a lucrative arrangement.

Conclusions

The enormous potential for natural resources to benefit developing country societies is clear. However the resource curse has and continues to detract significantly from this potential, and in a number of cases results in worsened situations of conflict, dislocation, and underdevelopment. This article argues that a primary avenue out of the resource curse and toward realized potential, is through capacity building. This is because it is the *management* of the resources that will determine if it is the curse or broad prosperity that is realized. The challenges are formidable, but certainly not insurmountable. Cases exist where success at managing natural resources is evident--Botswana and South Africa being notable examples.

While capacity building is needed broadly across a range of issues and countries in the context of natural resources management, a capacity building strategy is also needed. Such a strategy is important for a variety of reasons, one of which is that

it can be dangerous to build capacity in an unbalanced way among actors who are in a relationship of tension, especially over resources, or emerging from armed conflict. The specific aspects of capacity building will need to be thought out in a context of sequencing. In different cases it may be more appropriate to pursue capacity building in institutions first, as opposed to individuals. In other cases it will be better to invest first in the capacity of law, as opposed to capacity of government. Many cases will require capacity building for customary communities and for investors. How this occurs, how long it will take, and the approach taken will be different for different countries.

The different aspects of capacity building are linked to desired outcomes. For example, it may not be worthwhile to build capacity for reviewing resource contracts in a comprehensive manner when the capacity for acting on the results (political will) is lacking (Lujala & Rustad, 2012). Knowing the linkages can be a good indicator of where to start in the capacity building process with regard to natural resource management.

The political will to engage in capacity building in a sustainable manner across different ethnic, religious, geographic, socio-economic, linguistic, autochthonous, and migrant populations will require leadership that takes the long view. This will involve capacity building among groups that are historically (or currently) opposed to each other. But with some groups in positions of greater power than others (a role in government, numerically advantaged, a claim to resources, a historical relationship to the colonial effort, etc.), providing capacity building in a balanced way can be difficult. At the same time, not doing this runs the risk of aggravating other problems, among them ineffective natural resource management.

While political will at the topmost positions of government is important, it can also be very effectively applied at many levels of both government and civil society, in a wide variety of training and education settings. While history has shown that broad capacity gains in a society does not always result in predictable outcomes (i.e. certain economic alliances or forms of government), it does facilitate the economic and political self determination needed in order for countries to navigate their own way in a world where effective management and exploitation of natural resource endowments will become increasingly important.

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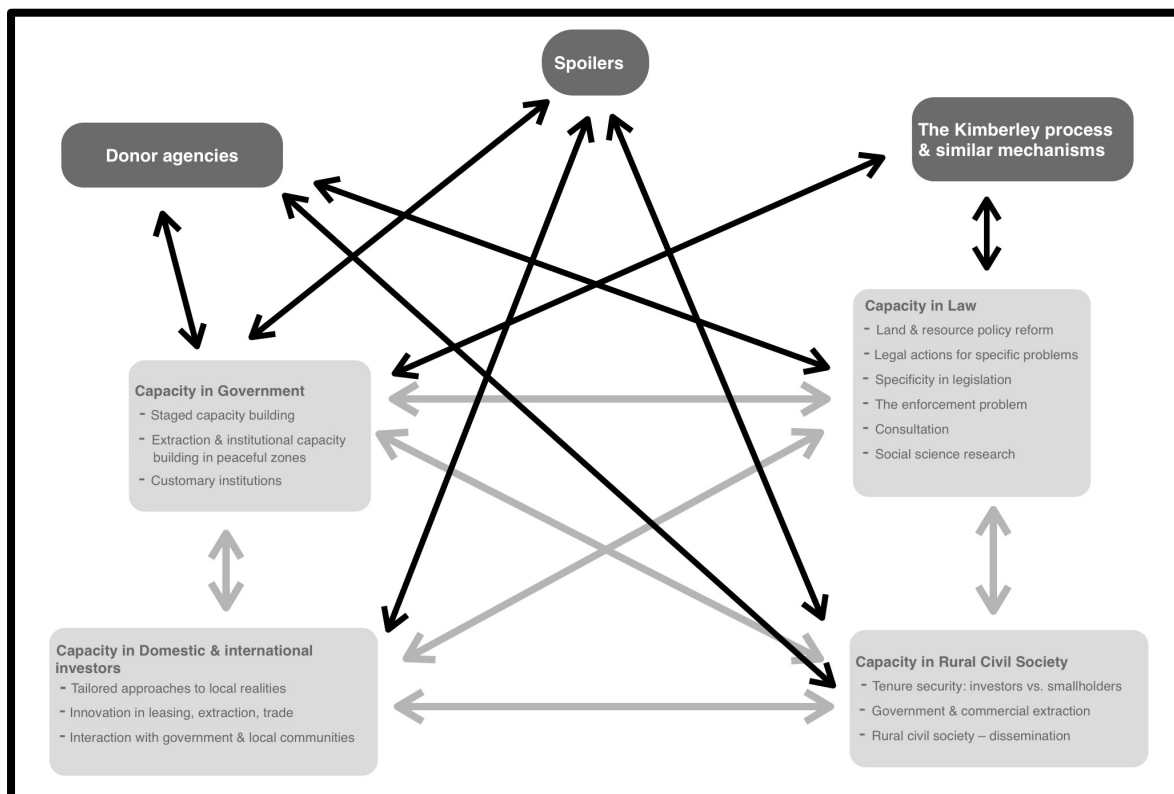


Figure 1. Framework for capacity building needs and the way forward. Grey boxes and arrows represent the primary actors in terms of capacity building needs. Black boxes and arrows represent the primary components of the way forward. Arrows indicate the existence of relationships and interaction between the various components and actors.