

Original article

Improved resource governance through transparency: Evidence from Mongolia

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ARTICLE INFO

Keywords:

Transparency and accountability
 Contract transparency
 Effectiveness
 Resource governance
 Mongolia
 Water
 Benefit-sharing
 EITI

ABSTRACT

Transparency and accountability initiatives have emerged as a potential solution to combat corruption and increase public benefits from the extractive sector in resource-abundant countries. The Extractive Industries Transparency Initiative (EITI) is one such initiative, through which 49 resource-rich countries have disclosed a cumulative 282 fiscal years of government revenues amounting to US\$1.9 trillion since 2003. This paper explores the potential for promised benefits of increased disclosure to be realized, in the form of improved resource governance. Building on the social accountability literature, a framework is proposed and then applied to the Mongolian context to examine which stages of the framework work well, and which fail to perform. Two types of contracts are analyzed, water usage agreements and community benefit-sharing agreements. Although Mongolia is recognized as a leading performer by international EITI standards, the analysis concludes that the framework's latter stages from disclosure to improved resource governance are incomplete. The policy implication is that greater attention to mobilization and citizen empowerment is needed to ensure that contract transparency can meaningfully contribute towards improved governance.

1. Introduction

Natural resource extraction in the presence of poor governance or economic volatility has been linked to destructive patronage politics (Collier, 2007), corruption (Bhattacharyya and Hodler, 2010; Gauthier and Zeufack, 2011), inferior economic growth (van der Ploeg and Poelhekke, 2010v), and a less inclusive business environment (Pritchett et al., 2017). Moreover, it has resulted in misaligned budget spending (Gauthier and Zeufack, 2011), destabilized public financial management systems (NRGI, 2014), violent conflict (Ross, 2012), and threats to democracy (Humphreys et al., 2007), among other pathologies.

In order to minimize the negative impacts of extractive development, many governmental and non-state actors – including host and donor governments, inter-governmental and non-governmental organizations, philanthropic foundations, and investors – have promoted a focus on contract and revenue transparency as one of many potential

solutions to the so-called resource curse (Senate Foreign Relations Committee, 2008; World Bank, 2003). This practice raises the question about what resource curse mitigations can realistically be expected from increased transparency. Supporters of transparency advocate for its importance during the early stages of resource development to promote fair competition between firms and mitigate corruption risks during licensing, contract awarding, and auctions by reducing information asymmetry and by extension ensuring the credibility of government negotiations (Biajstoch, 2017; Humphreys et al., 2007). Transparency in resource taxes paid to governments, and in sovereign wealth fund savings and transfers, can allow citizens to hold their government accountable for its expenditures (Bauer et al., 2014). At a broader level, evidence indicates that transparency can attract foreign investment (Frynas, 2010), increase trust and help to combat corruption (Eigen, 2007), and promote democratic participation through information sharing (Florini, 2007; Karl, 1997).¹

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¹ Bauer et al (2014) consider 22 natural resource funds worldwide; Florini (2007) analyzes effective publicly-driven disclosure in India, China, Central and Eastern Europe and Nigeria; Frynas (2010) analyzes the issue of revenue transparency based on the case of CSR of 20 multinational oil and gas companies; Eigen (2007) highlights the benefit of EITI implementation as described through cases in Azerbaijan, Nigeria and others.

However, there is growing evidence that disclosure or transparency alone cannot ensure better public service delivery to improve social and economic outcomes, including improved resource governance (Gaventa and Mcgee, 2013; Heald, 2006; Kosack and Fung, 2014; Mejía Acosta, 2013; Mol, 2013; Rustad et al., 2017; Sovacool and Andrews, 2015)². Indeed, the study of social accountability (SAcc), which is concerned with how to “improve institutional performance by bolstering both citizen engagement and the public responsiveness of states and corporations” (Fox, 2015), has emerged as a promising and growing literature in the study of governance. One strategy in the SAcc toolkit is transparency or disclosure of information to citizens or consumers (O’Meally, 2013).

The effectiveness of increased disclosure may increase with active media, or “infomediaries” who can translate disclosed data into meaningful information that improves government accountability to citizens (Fox, 2007), and political motivation (Epreman et al., 2016; Frynas, 2010; Gaventa and Mcgee, 2013; Mejía Acosta, 2013). Moreover, for transparency to lead to improved accountability, the state must have the capacity to measure and publish relevant information, and must establish incentives for disclosure (Florini, 2007). The effectiveness of the judicial system, a country’s history, institutional culture, and political economy all influence the relationship between increased flow and availability of information on the one hand, and enhanced accountability in the governance of natural resources on the other (Epreman et al., 2016).

The Extractive Industries Transparency Initiative (EITI), launched in 2003, is one example of an effort to reverse the resource curse and strengthen resource governance. Under this initiative, 49 resource-rich countries have disclosed, in open data format, a cumulative 282 fiscal years of government revenues amounting to US\$1.9 trillion between 2003 and 2016 (EITI, 2016a). The initial reporting reconciled information on resource companies’ payments to governments and governments’ receipt of such payments. According to the broadened EITI standard that has been in effect since 2013, information disclosure now also applies to contextual performance such as licenses and contracts, production and sales, beneficial ownership, and state participation (EITI, 2016b). Under the new standard, an even larger volume of financial and contextual information is being disclosed to the general public (EITI, 2016c).

The broadened EITI standard has been accompanied by the elaboration of arguments explaining the importance of contract disclosure and more detailed guidance for companies and governments to meet reporting requirements. For instance, to meet contract disclosure requirements, international non-governmental organizations including Natural Resource Governance Institute (NRGI)³ and Open Contracting Partnership (OCP)⁴ have published policy papers explaining why contracts should be disclosed and why this is important for local citizens. NRGI argues that because the citizens of the country are co-owners of the resources, they have a right to understand the terms of the extraction. When contracts remain secret, citizens and oversight agencies cannot properly monitor the implementation of transactions, placing

² Gaventa and Mcgee (2013); Mejía Acosta (2013), and Kosack and Fung (2014) review a number of experimental studies on transparency and accountability initiatives in the education and health sectors, most of which took place in India, Uganda, Indonesia and Kenya; Mol (2013) investigates the new challenges for value chain transparency in the case of environmental disclosure projects such as Eco-label and EU tracking; Rustad et al., (2017) evaluates EITI goals reviewing meta-data collected from EITI implementing countries; Sovacool and Andrews (2015) measured EITI governance impact in Azerbaijan and Liberia.

³ Headquartered in U.S and opened country offices in U.K, Ghana, Peru, Indonesia, Tanzania and Mongolia.

⁴ Established in 2012 and initially the World Bank Group served their host until the end of 2014. Headquartered in Washington D.C as well as in Canada, Columbia, Lithuania, Mexico and U.K.

the country at greater risk of corruption (NRGI, 2015). NRGI believes that the benefits of monitoring obligations in contracts between corporations and governments include ensuring the fairness of deals and laws as well as improving trust between society and contractors. OCP and partners (OCP, 2016) in turn highlight that the positive impacts of contract transparency could result in better deals and better-managed expectations between society, government, and companies.

Recent studies on EITI’s success (Rustad et al., 2017; Sovacool and Andrews, 2015) have concluded that EITI has achieved international transparency norms, made datasets available, and promoted a multi-stakeholder dialogue platform and a collaborative approach to resource governance. However, the key operational goal of increasing public understanding and engaging citizens has been evaluated as only partially successful, with a relative failure in terms of empowering the public to hold governments and companies accountable (Rustad et al., 2017). For example, Rustad et al. (2017) were not able to answer the question of whether EITI has made an impact in terms of its developmental objectives such as reducing corruption and improving living standards, because it was challenging to identify the correct measurements for goals beyond what the initiative formally seeks to achieve. Sovacool and Andrews (2015), through an empirical study on Azerbaijan and Liberia (the first two countries to achieve EITI candidacy), were likewise unable to attribute governance improvements with EITI implementation and thus advocated the need for a broadened view of influential factors. The latest validation of EITI’s progress (SDSG, 2017) conducted in fourteen member countries found that efforts to promote greater disclosure had led to critical changes in reporting practices and institutional mechanisms for a constructive dialogue platform. Nevertheless, most of the countries focused primarily on disclosure and neglected to measure impact.⁵ Validators also identified room for improvement in terms of stakeholder engagement, capacity building for civil activists in remote areas, and nuanced measurement of EITI’s impact.

In sum, practitioners are dedicating considerable effort and resources to increasing the level of information disclosure while struggling to measure the impacts of their initiatives. Meanwhile, scholars have called for a multi-scalar approach that untangles the complex drivers of success or failure for meeting desired EITI goals in specific contexts (Rustad et al., 2017). Related gaps in understanding the impact of transparency have also been identified as: a) how to deal with information overload (Humphreys et al., 2007), and b) understanding under what circumstances transparency improves governance outcomes (Kosack and Fung, 2014).

In this paper, a framework is proposed that builds upon existing knowledge from the social accountability, resource governance, and transparency literature. This framework is designed to steer information disclosure towards improved resource governance deliverables. The framework is then applied to a detailed case study of contract transparency in Mongolia to examine which stages are effective compared to those that fail to perform. The goal of the application is to identify stages in the framework that might be underdeveloped for improving resource governance.

Mongolia is an ideal case study for studying the relationship between transparency and resource governance for three main reasons. First, it is a resource-rich country with an economy heavily dependent on mining. In 2016, the extractive sector contributed 20% of Mongolia’s GDP, 19% of its budget, and 86% of its exports (KPMG Audit LLC (Mongolia) and KPMG (France), 2017). Second, Mongolia is recognized as a leader in EITI participation. Third, the country is one of the first to successfully implement the new EITI standards (EITI, 2017) and has received the EITI International Board Chair’s Award twice (in 2011 and

⁵ Only two countries showed satisfactory progress out of 14 countries in measuring EITI impact according to standard 7.4, Sustainable Development Strategies Group, Synthesis Report 2017, page 10.

2016) for its consistent improvement in making data available and accessible during its eleven years of membership (EITI, 2016d, 2011). However, despite these achievements, there is evidence that Mongolia still encounters challenges in resource governance including weaknesses in revenue management, national budgeting, an absence of investment in future generations through sovereign wealth funds, and lack of government effectiveness as measured by the 2017 Resource Governance Index (NRGI, 2017). Moreover, the country ranked in the middle of the field, scoring 36 out of 100 (0 is highly corrupt) according to Transparency International’s corruption perception index (Transparency International, 2018).

This paper explores Mongolia as a case study in five sections. Following the introduction, section 2 introduces the study’s framework, describing the process and proposed stages necessary to progress from contract disclosure towards improved resource governance. Section 3 outlines the methodology used to position Mongolia along the framework. Section 4 analyzes the current level of disclosure of resource contracts in Mongolia and then evaluates the strength of the framework against two specific contract types: water usage and community benefit-sharing agreements. We find that progress towards improved governance is limited in the water usage agreements case, and only partially complete in the benefit-sharing agreements case. Section 5 discusses the findings, particularly their external validity. The paper concludes by returning to the broader, global agenda of utilizing transparency for improved governance in resource-abundant developing countries.

2. Defining a framework from disclosure to improved resource governance

Drawing upon established literature, a framework is proposed to explain how increased disclosure might lead to improved governance outcomes, by considering the activities and actors that allow this transformation to occur. This is by no means the first articulation of a causal chain from exposure of information to some more complex form of action and governance. One of the aims of the SAcc field has been to understand what models or frameworks predict improvements in service delivery, and a variety of linear and non-linear models have been proposed (Fox, 2015). O’Meally’s (2013) generic SAcc model is a sort of

wagon wheel in which each of political and civil society, as well as intra-elite, intra-society, and state-society relations contribute to the environment for the effectiveness of any given SAcc intervention. Writing about an educational intervention in Kenya to promote student learning, Lieberman et al (2014) describe a 10-step path from citizens being informed about something to taking actions. Kosack and Fung (2014) describe different paths from transparency to accountability that can emerge, depending on the response of different actors in the sphere of the intervention. Fung et al (2007), which is the closest to the framework in this paper, propose a 4-step transparency “action cycle” that goes from information disseminated about a service provider to whether that service provider responds constructively.

The contributions of our framework to the literature are threefold. The goal is not to propose a wholly new framework for understanding the impact of transparency, but rather (1) to adopt the elements of the wider SAcc insights and apply them to the case of a particular intervention in the resource governance space, that of contract disclosure between extractives firms and local government. To do this, (2) the drivers and enablers that are required for the transformation to be effective are described for each stage of the framework. In articulating these drivers and enablers, (3) the framework offers a tractable, practical overview for policymakers or activists seeking to maximize the impact of transparency efforts in the resource contract space.

In the following paragraphs we define seven “transformations”: beginning with disclosure and culminating, hopefully, in improved governance. Fig. 1 depicts the overall framework, with the stages of the framework in the top row, the drivers in the second row, and the enablers in the bottom row. Drivers and enablers build on the model of demand (mostly citizen-led) and supply (mostly government-led) that characterized the World Bank-led SAcc models in the late 2000s, but which invoke the unrealistic market assumption that demand will beget supply (Fox, 2015). In Fig. 1 and the text, the transformations are presented as a linear causal chain, an assumption that we challenge in section 5. While this is one way to interpret the framework, and the easiest to analyze in a pilot case study, it could also be presented as a wagon wheel or a more complex multi-directional, multi-channel model as in Dewachter et al (2018).

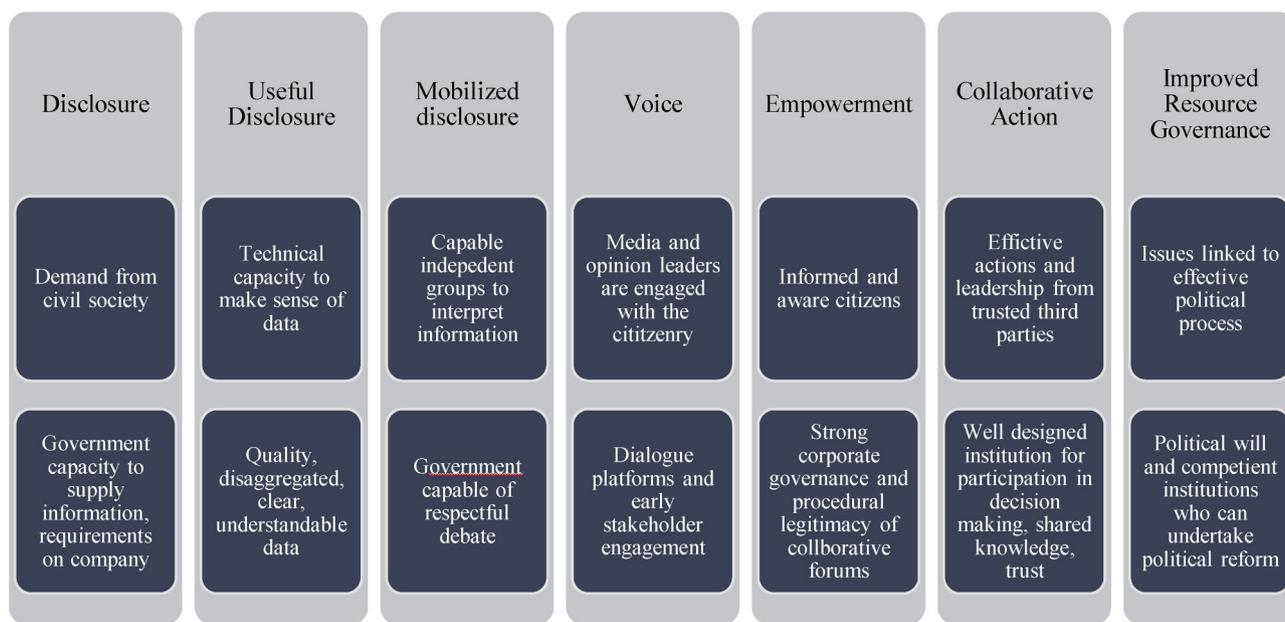


Fig. 1. The Framework from Disclosure to Improved Resource Governance. Stages are depicted in the top row, drivers in the second row, and enablers in the bottom row.

Source: Authors

2.1. Transformation 1: from non-disclosure to disclosure

Transparency can be defined as “an increased flow of timely and reliable economic, social, and political information, which is accessible to all relevant stakeholders” (Kaufmann and Bellver, 2005), p.4). Civil society organizations (CSOs) or non-government organizations (NGOs) – which we distinguish from citizens more broadly by their organization around an area of interest – are a particularly important constituency for demanding transparency (Florini, 2007), including for issues relating to natural resource governance. Transparency demand may also emerge from other private sector actors such as industry associations, non-corrupt private sector actors seeking to bid on competitive contracts, or government agencies seeking to improve revenue capture. Besides the driver-side incentives coming from civil society actors, enabler-side requirements are also important mechanisms (Humphreys et al., 2007; Mejía Acosta, 2013). Based on the above, we predict the emergence of disclosure of resource-related information as a function of citizens’ demand, the government’s capacity or willingness to release information, and companies’ requirements to disclose.

Driver: Civil society organizations and other interested stakeholders are aware of resource governance issues, placing pressure on government and companies to disclose information.

Enabler: Government capacity to collect and publish information, and requirements on companies to disclose information.

2.2. Transformation 2: from disclosure to useful disclosure

For disclosure to become meaningful, or “useful,” to data consumers, information needs to be comparable and disaggregated (Fung et al., 2007). Consider the demand for information around campaign financing: if the government released an aggregated statistic of the total donations received by political parties, data consumers would not know whether it advantaged one party, or whether the donations came from a particular interest group. Without clear identification of which data should be transparent, and why, the call for increased transparency may have little meaning (Fung et al., 2007; Humphreys et al., 2007). The usability of information disclosed also depends on its technicality; for example, some information might be disclosed but incomprehensible except to a small cadre of experts. Larsson (1998) and Heald (2006) distinguish transparency from openness by this character of usability. The quality and reliability of information is a necessity for effective transparency (Mejía Acosta, 2013). Based on these findings, we define the concept of “useful disclosure” as content that reflects timely, accessible, reliable, comparable, and disaggregated data disclosure that occurs when there is technical capacity amongst data consumers to make sense of the information.

Driver: Data consumers exist and can make sense of disclosed information.

Enabler: High quality, clear, disaggregated, and relevant information is disclosed.

2.3. Transformation 3: from useful disclosure to mobilized disclosure

For transparency to have a chance at having a real impact on improved resource governance, the disclosed information needs to reach a competent constituency outside of the initial decision-making process whose decisions and policies might be influenced by the availability of disclosed information. According to Florini (2007) “it is the degree to which information is available to outsiders that enables them to have an informed voice in decisions and/or to assess the decision made by insiders” (p.5). Meaningful transparency not only requires the receiver’s capacity to obtain and process the information, but also adequate resources to act on it (Gaventa and Mcgee, 2013). For example, CSOs must not just be technical consumers of the data released, but trustworthy synthesizers and publicizers of disclosed information. Transparency is only sustainable, according to Fung et al. (2007), when there

are capable users and when disclosers benefit from the practice. In other words, competent and resourced groups are needed both in civil society as well as in government to facilitate an informed and mutually beneficial conversation.

Driver: Capable CSOs and other independent groups such as academic institutions have the ability to interpret and synthesize the information disclosed.

Enabler: Government is capable of engaging in respectful debate with its constituencies.

2.4. Transformation 4: from mobilized disclosure to voice

To transform the transparency conversation from specialized communities of experts to common citizens, broader and inclusive instruments are necessary. A collaborative and consultative platform and an active media can facilitate citizen engagement in policy formulation (Collier, 2007; Goetz and Gaventa, 2001). Indeed, if the media or key opinion leaders (who need not be subject matter experts on resource governance) cultivate discussion on disclosed information, then informed public debate can take hold. On the supply side, procedural transparency characterized by early engagement on potential government policy decisions, perhaps through a dialogue platform, can support the development of citizen voice. Citizens who are engaged can play a part in policy formulation, yet many transparency and accountability initiatives such as the International Budget Partnership’s Open Budget Index, EITI and the Right of Information Campaign in India, focus solely on citizens’ “downstream” role in monitoring policies that were formulated without their involvement. Gaventa and Mcgee (2013) thus argue that procedural transparency and stakeholder engagement in the early stages of policy formulation can improve accountability and citizen engagement.

Driver: Active media and opinion leaders take the conversations around disclosed information to the citizenry.

Enabler: Government pursues proactive engagement with stakeholders through effective dialogue platforms.

2.5. Transformation 5: from voice to empowerment

For citizens to exercise voice and fulfill their role in accountability relationships they not only need to be aware of their rights and have the requisite skills and tools to exercise them, but also feel empowered (O’Neil et al., 2007). This stage in the framework is the one that produces broad-based informed interest groups, or constituencies, that favor reforms that might be pinpointed as a result of disclosed information. Demanding and securing transparency or accountability can be a crucial step in citizen’s empowerment and ability to contribute towards local political decisions (Gaventa and Mcgee, 2013). Citizen empowerment is arguably the most important element of all these efforts and actions for stronger accountability in resource governance because it affects the political calculus around new policies. Citizens’ participation can improve service delivery outcomes, leading to a better match with local needs, improving service quality and access, and reducing corruption and resource misallocation (Babajanian, 2014). However, it is not only civil society that needs to be empowered, but industry and government agencies must be prepared for effective and collaborative action through strengthening their internal organizational structures (e.g. grievance mechanism) and developing strategic partnership policy with end users of disclosed information (Ansell and Gash, 2008; Veenstra et al., 2017). Institutional design and change agents create ground rules for collaboration, which are critical for the procedural legitimacy of the collaborative process (Ansell and Gash, 2008). Therefore, at this stage, improved corporate governance or social responsibility and integrated government process are defined as key enablers.

Driver: Informed and aware citizens are organized into constituencies for reform.

Enabler: Strong corporate governance with effective grievance mechanisms and procedural legitimacy within collaborative forums.

2.6. Transformation 6: from empowerment to collaborative action

If the citizenry's voice is empowered, corporate governance is improved, and government agencies' processes seek meaningful stakeholder engagement then transparency can bring about positive changes in resource governance. This transformation is realized when the constituencies for reform that emerge in the empowerment phase are able to successfully link their desires with political processes, and when the government itself has the capabilities to respond to those desires through effective collaborative action, service delivery and policy formation. Collaborative governance is becoming a trendy solution to cope with resource governance's complex issues (Batdorj, 2018). However, it requires effective enablers and drivers to bring about sought-after outcomes, for example: the extent to which stakeholders' participation is institutionalized; how well local and scientific knowledge is mobilized to promote understanding of complex environmental issues (Reed, 2008); clear incentives for participation in collaborative forums; as well as fair rules of play about who is represented, who leads, and the extent to which shared understanding exists among participants (Ansell and Gash, 2008; Emerson et al., 2012). Trust and a willingness to allow each partner to play their strengths are also recognized as critical attributes of success in collaborative partnerships (Fraser and Kunz, 2018). As such, we define the drivers for this phase as an interested actor's action and leadership, and the enablers as government action and policy that ensures stakeholders are well-selected for participation, shared knowledge and trust building.

Driver: Effective action and leadership from interested actors, e.g. political actors or trusted third parties such as CSOs, academia, or multilateral institutions.

Enabler: Clear procedural design for citizen participation in decision-making, trust among stakeholders, and shared baseline knowledge among participants in collaborative decision-making.

2.7. Transformation 7: from collaborative action to improved resource governance

At the final step of the framework, transparency can aspire to meaningful outcomes such as improved resource governance. Meaningful and full transparency can identify issues for improvement, build trust among CSOs and government, and encourage citizen's active participation and oversight in the political process. As wider groups of citizens become part of the process and influence the trajectory of state institutions and capabilities (Pritchett and Werker, 2012), accountability can increase, resource contracts can be written with a maximized benefit to the public, public expenditure efficiency can increase, environmental damage can decrease, and corruption can decrease. Most importantly, in order for these outcomes to occur, relevant issues need to be linked to effective political processes (Kemp et al., 2005). Linking happens through collective actions taken by different stakeholders, including government, industry associations, data journalism and influential CSO coalitions. Understanding the incentives structures that shape the behavior of powerful politicians, and which interests they represent, is of paramount importance in addressing corruption and governance failures (Gray and Kaufman, 1998). Thus, we define key drivers as effectively-led constituencies able to engage with the political process and to participate in collective action that links relevant issues to effective political processes.

Driver: Effectively led constituencies that link issues to effective political processes.

Enabler: CSOs that have political will and competent institutions that can undertake political reform to strengthen the rule of law.

3. Case study methodology

We applied the framework in Mongolia to examine the country's progress in deriving benefits from resource contract disclosure. Two separate cases, water usage agreements and benefit-sharing agreements, were used to test the framework.

To position these two cases along the framework, we evaluated their levels of disclosure using the metrics defined in Table 1. Level of disclosure was also considered in terms of whether drivers were voluntary or mandated according to EITI standards and national law. To analyze the level of disclosure, we reviewed the disclosure practices during five years of EITI reconciliation reports from 2010 to 2015, EITI working group meeting minutes and presentations, and publicly-available websites for contract databases that were developed under the EITI working group. We also drew from the first author's expert knowledge as a practitioner for EITI for eight years to inform our analysis. Our measures for the level of disclosure are calculated from the data collected by the EITI team tasked with getting contracts from extractive companies and government officials.

Second, after determining the level of disclosure for resource contracts, we applied the seven stages of the transparency framework to the cases of disclosure of water usage agreements (WUAs) and benefit-sharing agreements (BSAs).⁶ We chose these two types of agreements for a number of reasons. Importantly, there is demand from civil society for their disclosure. That means that the first stage of the framework makes them "live" issues. Water and benefit-sharing agreements (or local community relations more broadly) represent a trigger for community-company conflict in Mongolia, as they are in many mining communities around the world (Fraser and Kunz, 2018). A recent baseline study from the local community in Mongolia revealed that this information was in high demand (ASI, 2017; Boldbaatar, 2015). These agreements were also interesting from a research perspective as there was no regulatory basis specifying how the contracts should be disclosed. The framework thus provided a basis for evaluating the effectiveness of current disclosure practices. Moreover, there are dramatically different levels of disclosure between the two types of agreements, indicating that level of disclosure may represent a variable which influences how data disclosure contributes to enhanced resources governance.⁷

We conducted qualitative analysis in the 20 publicly-available BSAs as well as the one WUA (as of September 2017) using content analysis to assess the effectiveness of disclosure according to the framework. The main questions we asked were:

- What information does the agreement contain?
- How is the contract information made accessible?
- To what extent is the information disaggregated to facilitate better monitoring?
- How often is the information mobilized by civil society and media?
- What were the key concerns or challenges for civil society?

The accessibility of contract information is rated on a five-point Likert-scale, where "Absolutely no data" was coded as 1 and "Complete and disaggregated data" as 5.

Table 1 describes inquiry focused on the earlier stages of the framework. We focused our research on the earlier stages of the framework, stopping when we found one or two incomplete stages.

⁶ There is an overlapping rubric of terminology to describe the broad class of agreements between companies and communities that specify how communities will be compensated for the investment activity. Different scholars refer to BSAs as community development agreements, impact benefit agreements, or participation agreements, among others (Browne and Robertson, 2009).

⁷ A final reason that we chose to analyze water and benefit-sharing agreements in particular is because the second author has a research agenda on mining and water, and the third author has one on benefit-sharing agreements. We can thus forward credibly promise that we did not "cherry pick" these types of agreements based on the characteristics of the outcomes.

Table 1
Metrics used to measure the level of disclosure according to the framework.

| Transparency Framework stages | Metric | Method | Measurement | Scope and source |
|--------------------------------------|---|--|--|---|
| Baseline of data disclosure | Are there any publicly available contracts? | Quantitative - Desk review | Yes/No | EITI contract data base www.resourcecontracts.mn |
| Disclosure | Civil society constant demand for disclosure? | Qualitative – observation and mini focus group interview | Yes/No | Expert knowledge and MSWG meeting minutes; mini focus group interview conducted in September 2017 with local community from Gурvantes soum, Umnugovi aimag |
| | Company reaction? | Quantitative – desk review | Level of responsiveness for disclosure | Mongolia EITI Reports for the year of 2011-2015; Ad-hoc working group reports, meeting minutes |
| | Government willingness? | | | Analysis of publicly available 20 BSAs and 1 WUA www.resourcecontracts.mn |
| Useful disclosure for better outcome | What is in it? How accessible and disaggregated is the contract information? | Qualitative analysis by coding, prioritizing, content analyzing Desk review | Code and select the most important contents of WUAs and BSAs and then analyze the measurability of contents Likert: 1 - absolutely no data 2 - information is partially available in aggregated format; 3 - information is available in a disaggregated format; 4 - most information is available in a disaggregated format; 5 - all company's information is available in disaggregated format; | EITI Data Portal – https://e-reporting.eitimongolia.mn/ Mongolia EITI Reports 2014-2015 www.eitimongolia.mn Ministry of Environment – Water data base http://www.eic.mn/water/ River basins - http://www.riverbasin.mn/ |
| Mobilized disclosure | Are the disclosed contracts monitored by civil society and media? What are key concerns or challenges for civil society? | Desk review Qualitative analysis | Yes/No if yes how many contracts? Ratio for disclosed/mobilized contracts The frequency of challenges stated in the monitoring reports | Media monitoring and Mongolian Mining Journal Contract monitoring reports of Publish What You Pay Coalition and Natural Resource Governance Institute of Mongolia Office |

Table 2

Level of responsiveness of extractive companies for local contracts.

Source: Compiled by the authors from EITI Mongolia Reconciliation Reports 2011–2015, EITI Mongolia Data Portal – Government Reports 2011–2015, www.eitimongolia.mn

| # | Items | 2011 | 2012 | 2013 | 2014 | 2015 | Ave |
|---|---|------------|------------|------------|------------|------------|------------|
| A | Number of mining license holders | – | 1823 | 1660 | 1553 | 1939 | 1743 |
| B | Number of active companies (which paid royalty and extracted the resource) ^a | 442 | 203 | 170 | 177 | 174 | 233 |
| C | Number of companies included in the EITI contract survey | 200 | 200 | 250 | 236 | 202 | 217 |
| D | Number of companies providing contract information to EITI | 21 | 32 | 68 | 42 | 54 | 43 |
| E | Level of responsiveness (percentage of eligible companies who provided contract information E = D/C) | 11% | 16% | 27% | 18% | 27% | 20% |
| F | Total number of contracts declared to EITI ^b | 26 | 132 | 97 | 167 | 141 | |
| G | Of which | | | | | | |
| H | Benefit-sharing agreements | 10 | 22 | 26 | 44 | 80 | |
| I | Water usage agreement | 6 | 21 | 30 | 20 | 20 | |

^a EITI Mongolia Data Portal, Government receipts report for the year of 2011–2015, initial disclosure.^b Declaration does not imply contract disclosure. Because we do not have data on the total number of resource contracts established in the extractive sector, the level of disclosure is not defined. What we can measure is the level of responsiveness, which might indicate the willingness of industry to promote better transparency or at least engage with EITI.

4. Results

4.1. Level of disclosure of resource contracts in Mongolia

Contracts established in the extractive sector set out the key terms of agreement in many oil, gas, and mining investments. Among other things, contracts may include information on a project's fiscal terms, local content, environmental impact, infrastructure, and production timing – information that is crucial for citizens to understand, monitor, and hold their governments (and, if applicable, investors) accountable to their obligations. The EITI standard 2.4 has encouraged the public disclosure of resource contracts since 2013, although the actual requirements depend on each country's initiatives. However, it remains EITI practice to document the policy and legal framework for disclosure and actual practices in the annual EITI report. The key performance indicator for such requirements comes from the international independent validation exercise, which confirmed that Mongolia has made satisfactory progress on enabling the legal environment and creating online databases for open resource contracts (EITI, 2016e).

The 2015 Mongolia EITI report found that there are nine types of agreements being established in the extractive sector between industry and government (Hart Nurse Ltd (UK) and Ulaanbaatar Audit Corporation LLC (Mongolia), 2016). An analysis of the relevant policy and legal frameworks regarding mandatory and voluntary requirements provides a baseline for subsequent assessment on the level of extractive sector contract disclosure in Mongolia. According to the Development Center for Mining in Mongolia, the Government of Mongolia supports public disclosure of extractive contracts through its policies, but there are no specific legal terms about contract transparency in the major extractive sector laws such as the minerals, petroleum, nuclear energy, and investment laws (KPMG Audit LLC (Mongolia) and KPMG (France), 2015). This legal omission means that companies have some autonomy around disclosure of contracts. Should companies wish, they could (and they frequently do) keep these contracts hidden, citing corporate confidentiality law.

Among agreements with the national government, there is one investment agreement publicly available on the company's website on a voluntary basis (Hart Nurse Ltd (UK) and Ulaanbaatar Audit Corporation LLC (Mongolia), 2016). Concession agreements and stability certificate information (not the certificates themselves) were also made accessible on the National Development Agency website as required by the law⁸ (NDA, 2017a, 2017b). Regarding the disclosure of production-sharing agreements in the oil sector, Mongolia's 2013 and

2015 reconciliation reports, a consultation forum with petroleum companies in May 2016, and its follow up actions confirms that the PSAs remain secret (EITIM, 2016a; Hart Nurse Ltd (UK) and Ulaanbaatar Audit Corporation LLC (Mongolia), 2016, 2014).

Local contracts are covered in Mongolia EITI's annual reports during the last five years. According to Article 42.1 of Minerals Law of Mongolia, extractive companies may establish BSAs with the local authority for infrastructure development, job creation, and environmental protection. In addition to the BSAs, companies are required by Mongolian law to establish sub-contracts on matters such as land and water usage and waste management on an annual basis. Only one in five companies surveyed has disclosed the existence of their contracts to EITI (see Table 2, row E), despite there being no confidential clauses in these types of agreements nor legal restrictions against their disclosure. Moreover, the Multi-Stakeholders Group entity has requested local governors to disclose BSAs twice. Their disclosure rate was just 50%, despite being obliged by government resolution #222 to provide these agreements upon request (EITIM, 2016b).

Although nine types of agreements in the extractive sector were identified, comprehensive statistics for contracts proved difficult to acquire. It is important to note that just because a company has disclosed their contract information or declared the existence of a contract to EITI, it does not mean that the contract itself has been shared and is publicly available.

4.2. Completeness of the transparency framework in Mongolia

In this section, the elements of the framework from disclosure to improved resource governance are applied to case studies of WUAs and BSAs. As described in the methodology section above, we analyzed the content of the 21 publicly-available agreements that were available as of September 2017. Our analysis set out to determine the completeness of the different stages of the framework.

4.3. Water usage agreements

Every community on earth depends on water. More than a billion people currently live in water-scarce regions, and as many as 3.5 billion could experience water scarcity by 2025 (WRI, 2013). Mongolia has been estimated to be one of 36 high-water-risk countries in the world by the World Resource Institute (WRI, 2013). The Mongolian annual water usage averages around 500 million cubic meters, and 80 percent is sourced from underground water (Bayanmunkh, 2014; Nyamdavaa et al., 2017). Usage in the mining sector averaged around 17 percent of total usage; in the South Gobi region in particular, usage is increasing because of the expansion of mining operations (Bayanmunkh, 2014). Thus, any information related to water resource governance in the

⁸ Glass Account law 2014, Article 6.4; 6.5.9, Concession agreements information established with SOEs shall be publicly available.

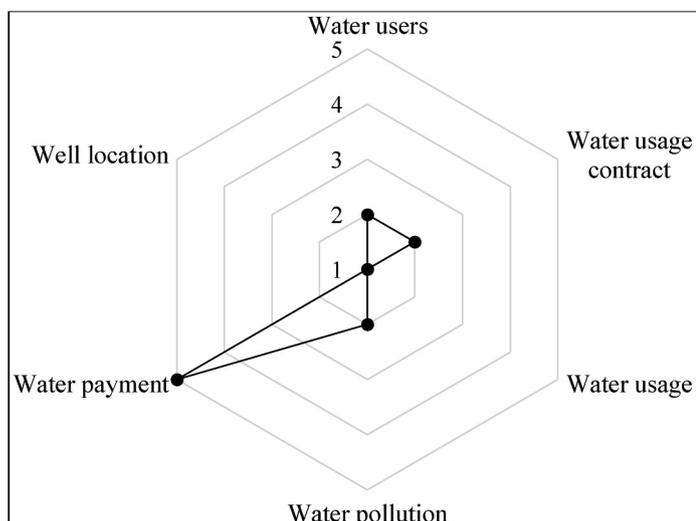


Fig. 2. Water related data accessibility in Mongolia.

Source: Authors compiled from EITI Mongolia (www.eitimongolia.mn) ; Extractive contract data base in Mongolia (www.resourcecontracts.mn) ; Ministry of Environment and Tourism (<http://www.eic.mn/wateruse/>, <http://www.eic.mn/waterpollution/http://www.eic.mn/wateruse/wuser.php>) River basins (<http://riverbasin.mn/zavkhan-gol#>)

mining sector, including usage, pollution, and rehabilitation, is likely to be of interest to many Mongolians.

In the resource contract database developed by the Open Society Foundation's Mongolia office,⁹ only one water usage agreement was published. Local authorities are obliged to establish these agreements with extractive entities annually, as per the Water Law. Yet the current legal environment has not guaranteed regular publication of such agreements. Through annual surveys with mining license holders in Mongolia over the past three years, the independent administrator for Mongolia identified the total number of WUAs, although the agreements themselves were not disclosed. According to Mongolia EITI's 2015 report, only 20 out of 174 companies that were operating and extracting resources in 2015 disclosed the existence of water usage agreements to EITI's independent auditor. The gap of 154 operating but not reporting companies raises questions about why the existence of WUAs was not disclosed. This lack of transparency may cause some to question whether companies have established water usage agreements according to legal requirements (see Table 2).

WUAs disclose water use permission, intended use, quantity, quality, location of the source, wastage, usage fees, pollution fees, water source protection plans, disbursed costs, as well as the roles and responsibilities of the parties involved (Legal Information Portal, 2012). According to content analysis on the only WUA that was publicly available, the contract contains essential information related to the water usage commitment and financial compensation, but would prove challenging for local citizens to decipher and compare. Concerned citizens would not have easy insight into how fair the payment formula was or whether the water usage target is reasonable. They would find no plans on environmental remediation, pollution, or rehabilitation.

The only information from the contract that can be monitored is payment, because the actual payment information is accessible in the company's EITI report. According to the company's EITI report for 2015, it paid 245 million Mongolian tugrik (equivalent to US\$124,000 using the exchange rate of 2015) for its water usage (EITIM, 2016c). But the EITI report template does not provide the water usage amount, which would be necessary to better understand the potential impacts of mining on available water supplies. There is also no information about whether the company met or exceeded its water allocation.

We also examined other data sources related to water. To assess the level of disclosure and useful disclosure, we considered whether the government provides information about water to the general public. To achieve that, we rated the quality of information contained in web portals of government organizations that are responsible for

environmental management, including the Ministry of Environment and Tourism and the Office for River Basins. Using content analysis, we evaluated the accessibility of relevant data portals, and compared these with the key indicators of the WUAs. Although the Ministry of Environment and Tourism has set up a water information online data portal, its sub-sections on water usage and pollution are underdeveloped, incomplete, broken, and limited (see Fig. 2).

One of key organizations responsible for water license allocation and monitoring is the Office for River Basins. This organization is also responsible for creating a database and informing the public (Water Law, Article 17.1.5), but its website has not disclosed any data as of October 2017. Accessibility to water-related data is currently very limited in Mongolia, despite *bag* (town) level citizens' *khural* (parliament) rights to know and be informed about the implementation of laws and regulations on water (Water Law, Article 14.1.1; Legal Information Portal, 2012). In contrast, our content analysis revealed a high availability of water payment information, because the Government of Mongolia has disclosed all extractive revenues by each company since 2012 through the EITI report, including water payments. Fig. 2 assesses the accessibility of WUA-related data. The accessibility of contract information is rated on a five-point Likert-scale, where "absolutely no data" was coded as 1 and "complete and disaggregated data" as 5.

Despite the significance of the information, the disclosure of WUAs has not been well implemented in Mongolia. This means that water-related transparency in Mongolia still struggles at the first stage of the transparency framework, i.e. transforming from "no disclosure" to "disclosure." Only one agreement was publicly available whereas 170 companies were operating in 2015. Other data sources related to water that could potentially aid in monitoring were not sufficiently informative, accessible, or cohesive to compensate for this lack of data.

4.4. Benefit-sharing agreements

The need for BSAs is especially acute in mining, where environmental and social costs are often borne by communities while main tax revenues are collected in the national budget and global financial centers, leading to conflict between local people, government, financiers, and miners (O'Faircheallaigh, 2013). BSAs have become an increasingly common tool for mining companies to secure access to mining sites. In Canada and Australia, BSAs are a response to Indigenous groups' claims over their territory and natural resources. Against an evolving claims background, hundreds of BSAs have been negotiated in the past couple of decades in Canada (Browne and Robertson, 2009). The resulting changes in the distribution of power

⁹ www.resourcecontracts.mn

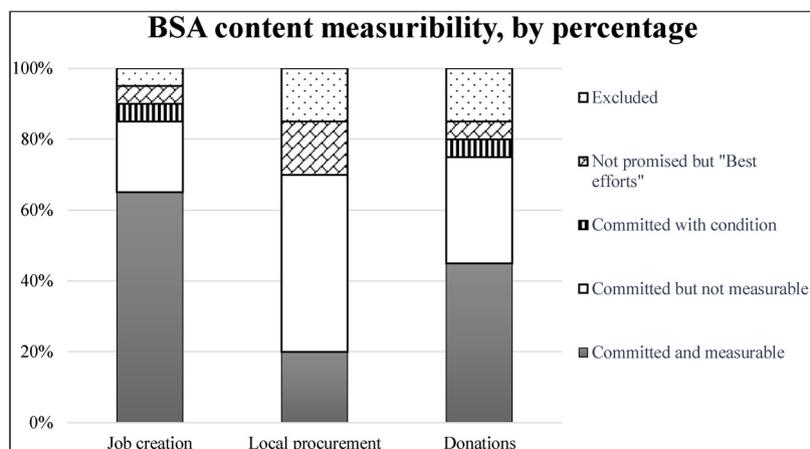


Fig. 3. BSA content measurability, by percentage.

Source: Analyzed by authors from publicly available 20 BSAs, www.resourcecontracts.mn, see Annex A, Table A1.

between communities and companies mean that companies increasingly need a “social license to operate” (Prno and Slocombe, 2012). BSAs are one vehicle to achieve that. For their part, communities can use BSAs to minimize the negative impact of mining and get companies to make commitments for local employment, contracting, and development projects. BSAs have been increasingly used outside of Australia and Canada. At the turn of the millennium, BSAs were “virtually unknown” in Africa, South America, Central Asia, Southeast Asia, and the former Soviet Union, but are now regularly negotiated in those areas (O’Faircheallaigh, 2013).

BSAs have evolved over the years to include provisions covering a wide array of matters in impact mitigation and benefit sharing (O’Faircheallaigh, 2013). Items covered in these agreements include: preferential employment and business contracting opportunities, training and education (including apprenticeships and scholarships), equity participation, revenue sharing, cash compensation, social and environmental monitoring and/or mitigation measures, archaeological site preservations, access to facilities and infrastructure, information exchange, agreement management, and dispute resolution mechanisms. Given the potential range of issues covered, it is not difficult to see the value BSA disclosure has to community members, both to help understand the benefits they should expect as well as to incentivize their leaders to negotiate a good deal.

In Mongolia, BSAs are mandated by the Minerals Law (Article 42.1), which states that a license holder shall work in cooperation with local administrative bodies and conclude agreements on issues of environmental protection, infrastructure development related to mine sites, and job creation. A previous study found that these agreements were absent from the public domain—not because of their confidentiality sections, but because the norms of transparency are not widely adopted in Mongolia (Dalaibuyan, 2015). BSAs have increased eight-fold within last five years in Mongolia (see Table 2). In 2015, 80 BSAs were reported, of which Oyu Tolgoi copper mine and South Gobi Sands coal mine together had signed 17. The remaining 40 companies each had only one or two BSAs held with local governments (Hart Nurse Ltd (UK) and Ulaanbaatar Audit Corporation LLC (Mongolia), 2016).

Has the disclosure of BSAs in Mongolia positively contributed to improved resource governance? According to EITI’s baseline study conducted in 2014/15 with 250 local citizens, 72% of survey participants expressed interest in being informed about mining activities. The three subjects that generated the most interest from the survey were: (1) local benefits (20%); (2) environmental rehabilitation (19%); and (3) job creation (15%) – all of which can potentially be regulated by BSAs. This finding was confirmed by needs assessment focus group interviews led by Adam Smith International in 2017 in five different

mining towns. The topics of highest interest were: (1) current environmental impacts and rehabilitation (29%); (2) contribution to soum/district economy (20%); and (3) employment opportunities (18%). The surveys reveal mining communities’ sincere demand for BSA-related information against a backdrop of incomplete disclosure, despite there being no legal hurdles preventing disclosure from taking place (Dalaibuyan, 2016).

We analyzed the content and usability of BSAs in Mongolia, based on a dataset of 20 publicly-available contracts as of September 2017 (see Annex A, Table A1). The contracts covered many types of community benefit issues including job creation, environmental rehabilitation, a local development fund, tax payment, local procurement, access to infrastructure, charitable donations, and emergency responses. The three topics that concerned the locals most (ASI, 2017; Boldbaatar, 2015) were selected for analyses: job creation, contribution to local economy via procurement, and donations.

The data show that 13 BSAs (65%) contained a measurable commitment to, or articles on, job creation, while 50% of local procurement responsibility clauses did not lend themselves to statistical measurement (e.g. “best efforts” type clauses as opposed to targets), making measurement through monitoring much more difficult. Nine companies were committed to support local development through monetary donations, whereas seven companies did not propose measurable contributions (see Fig. 3).

To monitor or mobilize the given contract information, we evaluated the availability and accessibility of data regarding donations, job creation, and procurement. A comprehensive database for such information was unavailable in Mongolia at the time of writing of this article. Under the EITI standards, donations and job creation data in the mining sector are collected and published annually by each company through the EITI e-reporting system. However, employment information is limited to the 200 companies with the largest revenue stream based on taxation payments to the government, which were reconciled annually by the EITI reports. Furthermore, procurement data in Mongolia does not contain the depth found in commonly-used reporting frameworks (see Fig. 4) (Kielty, 2016).

Regarding donations, the BSAs mostly provided one-time charitable donations in place of benefits to the local economy as stipulated in the companies’ legal obligations. In general, their information depth was better than nothing, but was neither complete (i.e. across mining communities) nor extensive enough to allow for effective monitoring or comparison.

Disclosure of the actual agreements, and the status on meeting their obligations under them, is a good start for civil society to ensure that companies fulfill their contractual obligations under BSAs. Nine civil

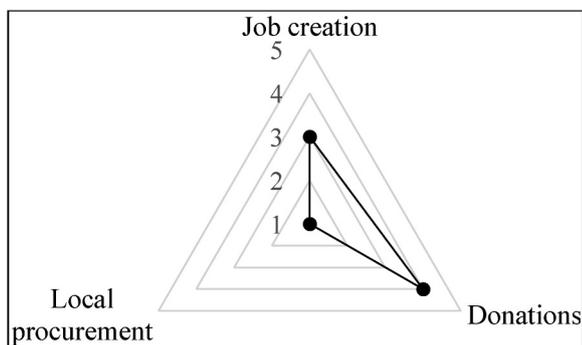


Fig. 4. Local procurement, donation and job creation related data accessibility in Mongolia.

Source: Authors from EITI Mongolia Reconciliation Reports 2014–2015; EITI Mongolia data portal – www.eitimongolia.mn;

society organizations, members of the Publish What You Pay coalition,¹⁰ monitored ten local BSAs in 2016 (*Mongolian Economy*, 2017). According to their report, key challenges for monitoring were limited data access, corporate bureaucracy, and unresponsiveness.¹¹ They found that local communities were unfamiliar with BSAs and their participation was not ensured during contract negotiation. Moreover, BSAs too often included wording that created non-verifiable commitments such as “if needed,” “as much as possible,” and “voluntary basis,” thus creating difficulties for monitoring contract accomplishments.

Besides NGO and CSO monitoring efforts, one investigative journal article on MoEnCo LLC’s BSA established with the Khovd Province was published in the *Mongolian Mining Journal*. The article strongly criticized the MoEnCo’s implementation of its BSA, alleging insufficient monitoring and a lack of transparency (*Mongolian Mining Journal*, 2015).

In sum, compared with WUAs, BSAs are much further along in the framework, but by no means have completed it. NGOs are capacitated and engaged in monitoring, and reporting their results to the public, suggesting elements of “mobilized disclosure.” The media has reported on the degree of compliance under the disclosed agreement, which in our framework is also indicative of the beginnings of “voice” in the continuum. But overall, very few contracts were disclosed. Disclosed contracts and data contain important information about job creation, environmental rehabilitation, and economic contribution at the local level. Transparency of BSAs remains insufficient, and the usability of disclosed information varies. For example, data for job creation and donations were occasionally comparable and disaggregated. Thus, from a supply-side perspective, there was not even complete “disclosure” of information, let alone “useful disclosure.” Moreover, we did not find any evidence that the civil society and media monitoring reached corporate and government decision-makers, or whether stakeholders had been engaged in a collaborative approach, thus suggesting a lack of “mobilized disclosure” of information as well on the supply-side (Fig. 5).

5. Discussion

Mongolia’s experience in implementing improved transparency and accountability for resource contracts through the EITI provides a useful case study for testing the utility of the proposed framework from disclosure to improved resource governance. Although Mongolia is recognized as a leading EITI performer by international standards, it is

¹⁰ PWYP Coalition has around 30 active CSO members and has actively engaged with the EITI since the beginning of 2006.

¹¹ Monitoring reports, Working Document of Publish What You Pay Coalition and NRGi Mongolia, September 2017.

found to be only at the early stages of the framework. This finding raises questions, which have been raised elsewhere regarding the effectiveness of transparency initiatives (e.g. Haufler 2010), around how resource contract disclosure can be made more relevant for increasing public benefits from the extractives sector and for enhancing local-level development.

This research finds very little public disclosure of WUAs or water-related information in general in Mongolia. This observation is important to address because the expansion of mining operations has been met with community opposition over water-related impacts (IFC and ICMM, 2017; IRIM, 2014). Research by the EITI Mongolia Secretariat also confirms that local citizens are demanding water-related information (ASI, 2017; Boldbaatar, 2015). Although local authorities are required to establish WUAs with extractive entities under the Water Law, these agreements are not necessarily made publicly available to communities unless local governments or companies willingly provide them to the EITI independent auditor or multi-stakeholder working group. Although the Government of Mongolia supports public disclosure of resource contracts through its policies, disclosure is not mandated in the law, meaning that there are few (if any) mechanisms for punishing non-disclosure. However, even if WUAs were made publicly available, this action alone would not be sufficient to progress them further along the framework stages, principally towards mobilized disclosure and citizen voice. Our analysis of the one publicly-available WUA contract concluded that the information therein was challenging to interpret. This highlights the important role that needs to be played by other actors (e.g. subject experts, civil society and academia) to analyze EITI data and communicate trends that are of importance and interest to local citizens.

Furthermore, even to subject-matter experts, WUAs lack the contextual information needed to evaluate the resource contract’s fairness in relation to conditions such as payment rates or water use allocation. For example, increased disclosure on water use by mining is irrelevant if there is limited information about overall water availability and/or the use of water by other industries. Judgement about whether mining or any other sector is using “too much” water is impossible without sound baseline knowledge of how much water is available in the first place. It is for exactly this reason that international NGOs have recently pushed for implementation of context-based water targets as a mechanism towards improved water governance (CDP, 2017). To address the need for contextual information and minimize the reporting burden that this could create, it may be beneficial for EITI data to be linked with other databases at the national and subnational level. This was recently acknowledged by the EITI international secretariat, who advocated linking environmental reporting to existing data sources (EITI International Secretariat, 2017).

In contrast to WUAs, the research found substantially more disclosure, discussion, and monitoring of BSAs in Mongolia. This finding was driven primarily by strong drivers: communities wanting to know what mining companies were doing for them, and sophisticated NGOs and CSOs facilitating the understanding of BSA content and compliance. For example, CSOs under the Publish What You Pay initiative were actively monitoring a handful of BSAs. Despite these impressive achievements, the level of BSA disclosure was still incomplete, and with the exception of just one media article there was little graduation of BSA disclosure from an issue for experts to one that informs citizens more broadly. Perhaps as a result, we saw little evidence of the enablers that would be expected according to the framework. In other words, government and business were not really part of the conversation and there was no evidence that the practice of signing BSAs had changed as a result of disclosure. This finding echoes one of the conclusions of Fox’s (2015) meta-study, that locally-based “tactical” Sacc approaches in which citizen voice is the “sole driver” and it is assumed that “information provision alone will inspire collective action with sufficient power to influence public sector performance” are unlikely to bring about any real improvement in governance outcomes.

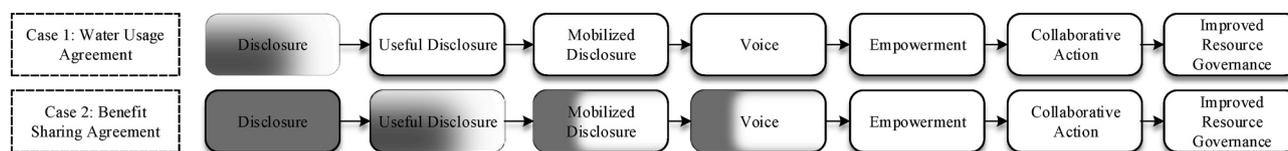


Fig. 5. The completeness (shaded boxes) of framework stages from disclosure to improved resource governance.

Source: Authors

One aspect of the Mongolian case that has consequences for external validity is that many of the key organizations inside Mongolia that are working towards transparency, and are anchored by EITI Mongolia, are recipients of outside funding. This commonality may explain both the level and the pattern of activity along the disclosure-to-improved resource governance framework. External funding to critical NGOs and CSOs should increase their activity levels relative to similar groups without funding, particularly for those in the stages of the framework that depend on civil society organizations as opposed to citizens more broadly. That said, we should not necessarily expect that countries without such funding will be able to turn latent demand from local populations into sophisticated databases and monitoring programs.

Two findings may be at least partially explained by the outside funding of critical NGOs and CSOs. First, we observed more pressure for disclosure and monitoring of BSAs than of WUAs, which may be driven by Mongolian CSO and NGOs' focus on BSAs rather than any inherently greater level of community demand. Second, the framework is more complete for BSAs on the driver-side than the enablers. The leading drivers of demand along the first three transformations of our framework are civil society organizations, whereas information supply requires action from government. While a well-resourced funder could "push" disclosure to be more useful or mobilized on the demand-level, the same efforts may be blocked by inactive government, or non-responsive media and opinion leaders. Thus, information suppliers may fail to translate disclosure into meaningful outcomes.

However, donor interest in transparency of local-level extractive sector contracts in Mongolia may not be purely a case of outside-funded NGOs driving local outcomes (Werker and Ahmed, 2008). Indeed, such donors may be attracted to Mongolia's potential for transparency to make a difference.¹² The country's relative dependence on the extractive sector for economic growth means that getting natural resource governance right is crucial. Its relatively strong democracy and civil society indicates potential for citizen-driven accountability. And its inexperienced institutions for regulating and monitoring mining imply that there is still a need, and a prospectively high return, for non-governmental oversight. Mongolia therefore serves as a "critical case" (Flyvbjerg, 2006) for studying the impacts of transparency on development. In other words, if it isn't working here, it may not have much chance of working anywhere else. Developed countries may have better developed frameworks but often lack transparent BSAs. Moreover, they can depend on courts or regulatory processes to hold firms accountable. So, the framework's observed incompleteness in Mongolia should serve as a wake-up call to advocates for transparency in resource contracts as a means to promote broader resource-led development.

Regardless of the question of external validity, we note that there are at least two challenges with operationalizing this framework or relying on it for policymaking. The first challenge is that with each successive stage in the framework, it becomes harder to assign causal attribution for a policy action. As the stage progresses from disclosure through to improved governance, the concepts become progressively more difficult to measure as well as multi-causal. Not only is "empowerment" harder to measure than "disclosure," for example, but

¹² One potential channel to social accountability in Dewachter et al (2018) is the "civil society" track, which they observe in a number of successful cases of clean water provision in Uganda.

there are a host of other factors that influence the level of empowerment besides those that stem from the disclosure of information. Indeed, good resource governance itself requires much more than the effective and thorough use of transparency. The second challenge is that, as we alluded to before introducing the framework, although we have described and documented a logical progression along the stages of the framework, there is potential for causality to also run in the other direction at any particular transformation. In other words, under some conditions, "voice" (or any other stage of the framework) could lead to "mobilized disclosure" rather than just the other way around. What these challenges mean is that one cannot approach the problem as a closed system that can be easily engineered.

Finally, we note that the findings here may be relevant to transparency efforts outside the natural resource space. A growing body of evidence attempts to measure the impact of different SAcc efforts, recently analyzed in Fox (2015). Mongolia's experience with transparency in local-level extractive sector contracts adds to this evidence base, providing a cautionary tale that requiring disclosure on its own is not likely to lead to full-scale transformation. Additional efforts to develop civil society capacity, government attention, and ultimately broader participation by media and citizens in the conversation are critical.

6. Conclusion

The promise of transparency as a defense against the most pernicious elements of the resource curse has some compelling logic. Shining a light on transactions, contracts, and compliance in a sector where deals and corruption are rife can change the calculus of would-be rent seekers and bring about accountability in government, and between companies and the citizens that are being compensated to extract their resources.

This paper has focused on the disclosure of local-level contracts on water use and community development, using Mongolia as a case study to test a framework that builds on social accountability research as well as critical literature highlighting deficiencies in the transparency agenda. The proposed framework contributes to this knowledge base by laying out the steps needed to take the disclosure of resource contracts through the various stages of transformation needed to achieve the promise of improved resource governance. A test of the framework in Mongolia – a country likely to obtain high returns from transparency – indicates that, despite decent efforts to promote disclosure, it remains incomplete as a driver of improved resource governance. The promise of transparency remains just that, as predicted by Fenster (2006), who challenged the concept of transparency in that it "assumes too much of the state, of government information, and of the public" to be able to meet that promise.

Going forward, it might be more useful to apply the framework of disclosure to improved resource governance, rather than focusing on transparency alone. The framework exercise piloted in this paper offers one simple methodology for identifying and prioritizing interventions linked to the broader agenda of transparency and accountability in natural resource governance. However, as one progresses further along steps in the framework it becomes harder to assign causal attribution since the concepts become progressively more nebulous and inter-related (e.g. there are many factors that contribute to resource governance that do not stem exclusively from disclosure).

Finally, as a practical recommendation based on the analysis in this paper, in Mongolia the EITI standards and templates can be linked with other databases at the national and subnational level, and even put into simple data “dashboards” for specific content to increase the usability of disclosed information. Utilizing these dashboards might better enable constituencies for reform to emerge that could put smart, engaged pressure on government and resource companies for better outcomes.

Funding

This work was supported by the Canadian International Resources and Development Institute [International Fellows Program] and the

Annex A

See Table A1.

Table A1
Publicly disclosed local level contracts in Mongolia by September 2017.

| Code# | The contractor (company side) | The contractor (government side) | Level | Contract date | Duration |
|-------|--------------------------------------|--|-------|---------------|--|
| 1 | Berkhiin nuram LLC | Dashinchilen soum Governor of Bulgan aimag | Soum | 2016.06.21 | 02016.12.31 |
| 2 | Mongolia gladville uvs petroleum LLC | Uvs aimag | Aimag | 2015.06.26 | N/A |
| 3 | SS Mongolia LLC | Bayan-ulgii Governor | Aimag | 2015.03.30 | 2016.12.30 |
| 4 | Taishen development LLC | Dundgovi aimag Governor | Aimag | 2015.08.27 | End of production |
| 5 | GPF LLC | Dundgovi aimag Governor | Aimag | 2014.12.05 | Until the allocation of license to operate |
| 6 | Altain khuder LLC | Govi-altai aimag governor | Aimag | 2014.05.19 | 2016.05.19 |
| 7 | Khan-shashir LLC | Khentii, Bayan-Ovoo soum Governor | Soum | 2015.06.22 | 2017.06.22 |
| 8 | SMKI LLC | Khentii, Bor-undur soum Governor | Soum | 2014.10.27 | 2015.10.27 |
| 9 | Zunrun LLC | Orkhon, Jargalant Soum Governor | Soum | 2013.06.20 | 2017.07.01 |
| 10 | Bolor orgil mining LLC | Bulgan, Dashinchilen soum governor | Soum | 2016.03.28 | blank |
| 11 | Evseg saikhan LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 12 | GBNB LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 13 | Khuslemj LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 14 | Monpolymet LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 15 | Tusulch LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 16 | Uguuj bayan khangai LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 17 | Urmun uul LLC | Bulgan, Buregkhangai soum governor | Soum | 2016.04.13 | 2016.12.31 |
| 18 | Bayan-airag exploration LLC | Zavkhan, Erdenesaikhan soum governor | Soum | 2014.03.23 | End of production |
| 19 | Mo En Co LLC | Khovd aimag governor | Aimag | 2014.03.06 | 2016.12.31 |
| 20 | Petrochina dachin tamsag LLC | Dornod, Matad soum Governor | Soum | 2016.08.18 | 2017.08.18 |
| 21 | Bayan airag exploration LLC | Zavkhan, Hyargas lake river basin administration | Aimag | | |

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