

Overcoming Impunity: accountability in Africa

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Les Afriques dans le Monde-

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Impunity

- Impunity and freedom from accountability
- Impunity in the private sector
- This freedom means no punishment
- Extreme violence and silence

Accountability

- A complicated concept
 - Social responsibility
 - Control
- Responsibility for actions
- Officials are answerable

Two cases: Angola and Nigeria

- Nigeria
 - Commerce, mining, population (180m), oil
 - Proven reserves 37 billion barrels
 - Proven reserves 5.125 trillion cubic m natural gas
 - Capacity to export 3 million barrels a day
 - Nigerian National Petroleum Company (NNPC)
 - Signatory of EITI – serious challenges of corruption

Secrecy and impunity in Angola

- Angola
 - Diamonds, gold, agriculture, oil
 - Proven reserves 8,4 billion barrels light crude oil
 - Proven reserves 308 billion cubic meters
 - Export approximately 1.75 m barrels a day
 - Sonangol
 - Signatory of EITI – serious challenges of corruption

Nigeria: Contracts and challenges

- Oil was discovered in 1957
- Contracts – fiscal regime
 - Concessions and joint ventures
 - Production sharing contracts
- Military governments
- Secrecy

Importance of oil in Nigeria

- Oil accounts for 75% of budgetary revenues, 95% fx
- Nigerian budgets work under percentage distributions
- State governors are extraordinarily powerful
- Benchmark production for 2015: 2.3 m b/d – and price of US \$53.00

Angola

- Oil that accounts for 50% of GDP, 70% of government revenues, 90% exports
- Benchmark price at US \$40 for oil
- Postwar reconstruction
- Cronyism and corruption are rampant
- EITI and publish what you pay
- Story of BP

Impunity, secrecy, and fiscal regimes in the extractive industries

- Citizens have no access to information
 - Contracts
 - Large sums of money
 - Signature bonuses
 - Royalty payments
 - Income taxes, fees, other
- Journalists seek information, but sometimes fail or worse
- Africa examples of dysfunctional management of natural resources include many cases

Impunity and corruption in the extractive industries:

- No transparency + no accountability = impunity
- Secrecy is essential to impunity – no one knows!
- Fiscal regimes
- Secrecy in the extractive industries

Impunity in business-state relations

- The Elf Scandal in France
- The TSKJ scandal

Impunity and corruption in Nigeria – the TSKJ scandal

- Investigations in Nigeria, France, the UK, and the US
- Nigeria under the generals
- Abacha and stolen assets

TSKJ – the story

- Nigeria Liquefied Natural Gas Project
- Two consortia filed
- Jeffery Tessler and a shell company, TriStar
- Bribes exceeded \$180m

Corporate impunity and corruption

- In 2009-2010, settlements with four corporations
- Hundreds of millions in fines for FCPA violations
- Jack Stanley, CEO of KBR, Jeffrey Tessler and Wojciech Chodan in prison

Official impunity

- Cases of high level officials
 - Former Delta State Governor James Ibori
 - Former Bayelsa State Governor Diepreye Solomon Peter Alamieyeseigha – pardoned by President Goodluck Jonatha
- Nigeria's former Minister of Petroleum Resources Mrs. Diezani Alison-Madueke
- Re-evaluation of oil contracts awarded without proper bidding procedures and were tender free
- Billions missing

How to overcome impunity?

- Institutional failures are at the base of impunity
- Norms are difficult to change – people have beliefs especially in systems where they must pay to rise to positions that provide access to bribes
- Rules encoded in laws
- Judicial discretion allows officials to refuse to enforce laws

Overcoming impunity

- Vertical accountability – elections
- Vertical accountability – parliamentary committees
- Vertical accountability – civil society organizations and the media

Overcoming impunity

- Effective public financial management
- Horizontal accountability – agencies of accountability
- Civil society organization, the media, and effective corruption control