



Resource Curse or Governance Deficit? The Role of Parliament in Uganda's Oil and Zimbabwe's Diamonds

Elijah Doro & Ushehwedu Kufakurinani

To cite this article: Elijah Doro & Ushehwedu Kufakurinani (2018) Resource Curse or Governance Deficit? The Role of Parliament in Uganda's Oil and Zimbabwe's Diamonds, Journal of Southern African Studies, 44:1, 43-57, DOI: [10.1080/03057070.2018.1403214](https://doi.org/10.1080/03057070.2018.1403214)

To link to this article: <https://doi.org/10.1080/03057070.2018.1403214>



Published online: 04 Dec 2017.



Submit your article to this journal [↗](#)



Article views: 152



View related articles [↗](#)



View Crossmark data [↗](#)

Resource Curse or Governance Deficit? The Role of Parliament in Uganda's Oil and Zimbabwe's Diamonds

ELIJAH DORO

(University of Stellenbosch)

USHEHWEDU KUFAKURINANI

(University of Zimbabwe)

This article returns to the question of 'resource curse' and the powers of local parliaments to harness resource exploitation to meet national development agendas. The study is inspired by direct experiences with the Zimbabwean and Ugandan parliaments. It examines the dilemmas and uncertainties that confront dysfunctional states, and states with weak governance institutions, in governing newly discovered natural resources effectively. It focuses on the experiences of parliament in Uganda after the discovery of commercially viable oil deposits in the Albertine Graben region and in Zimbabwe following the discovery of diamonds in Chiadzwa, both in 2006. In both countries, parliament has frantically tried to carve out space for national dialogue on, and transparent mechanisms for, the governance and control of the natural resources. Yet, in both cases, we describe an opaque terrain, where gross corrupt deals and underhand transactions can be processed without regulation. Parliament has tried, but failed, to play a critical role in oil and diamond governance. We conclude that the 'resource curse' is more a reflection of a governance deficit than a resource abundance crisis.

Keywords: governance; natural resources; parliament; oil; diamonds; Zimbabwe; Uganda

Introduction

There have been growing numbers of studies in recent years on resource utilisation and management in Africa.¹ In the case of Zimbabwe and Uganda, the discovery of diamonds and oil, respectively, in the new millennium has attracted widespread scholarly attention. Richard Vokes' 2012 article examines the potential consequences of the nascent Ugandan oil exploration.² At that point, as Vokes correctly notes, the debate on 'resource curse' over 'resource boom' was premature. However, the governance of oil exploration was already shrouded in secrecy, with Yoweri Museveni, the president, being much involved in the oil deals and policy formulation. Now, some four years after Vokes' article, it is possible to evaluate the policies adopted towards exploration and extrapolate the direction in which Uganda is heading. The challenges in transparency and accountability underlined by the poor participation of Parliament suggest that Uganda might be heading for some kind of a resource curse.

1 M. Badia-Miró, V. Pinilla and H. Willebald (eds), *Natural Resources and Economic Growth: Learning from History* (London, Routledge, 2015).

2 R. Vokes, 'Briefing: The Politics of Oil in Uganda', *African Affairs*, 111, 443 (2012), pp. 303–14.

In the Zimbabwean case, scholars have been critical of the manner in which diamond resources have been exploited and managed. Nyamunda and Mkwambo's study of Zimbabwe diamonds, for example, has documented the development of the exploration of diamonds in Marange, Chiadzwa, beginning with the era of exploration by De Beers from 1994 to 2006, then artisanal mining, and most recently the formalisation of mining through the introduction of local and foreign firms.³ Their study is critical of the state, whose interests proved to be multi-faceted and varied and in many cases conflicting.⁴ The study is equally suspicious of the role of multi-national corporations given exploration licences. De Beers, for example, in its 12 years of 'prospecting' in Marange area, was reported to have used locals to collect stones periodically yet it 'never declared any diamond exports'.⁵ Other studies have been just as critical of the exploitation of Zimbabwe's diamonds. Richard Saunders has described the resources as 'conflict diamonds',⁶ and, in a more recent study, David Towriss has argued that the revenues from Marange diamonds have mostly benefited government and military officials, as a way of having their loyalty bought.⁷ A study by G.R. Chimonyo, Solomon Mungure and Paul D. Scott similarly puts Zimbabwe's diamond discovery within the historical and economic contexts of the country.⁸ It exposes the ills of the exploration at economic and political levels. What all this research evidence points to is that Zimbabwe's diamonds have been marred with poor governance, and this we partly locate in the weak(ened) parliament.

In this article, we underscore the observation that much of the curse that resource-endowed countries have faced in the 'developing world' has to do with the governance of the resources themselves, as opposed to the mere presence of the resources *per se*. 'The idea', writes M. Badia-Miró *et al.*, 'is that the quality of institutions plays a central role in the curse or the blessing of natural resources, and even when there are abundant natural resources in an economy it can perform well if institutions are "good"'.⁹ Phillipe le Billon emphasises this role of institutions by noting that the availability in nature of any resource is not a predictive indicator of conflict: the key indicators are the desires sparked by 'people's needs (or greed), and the practices shaping the political economy'.¹⁰ This endemic governance problem is linked to the construction of African politics around prebendalism, patronage, cronyism and what Bayart terms the 'politics of the belly'.¹¹

We observe that in both Uganda and Zimbabwe, parliament should play a critical role in the institutional governance of resources, but each has failed meaningfully to influence

3 T. Nyamunda and P. Mkwambo, 'The State and the Bloody Diamond Rush in Chiadzwa: Unpacking the Contesting Interests in the Development of Illicit Mining and Trading, c.2006–2009', *Journal of Southern African Studies*, 38, 1 (2012), pp. 145–66.

4 *Ibid.*

5 *Ibid.*, p. 150.

6 R. Saunders, 'Briefing Note – Conflict Diamonds from Zimbabwe', Bonn International Centre for Conversion, 2009, available at https://www.bicc.de/fataltransactions/pdf/briefing_note_conflict_diamonds_from_zimbabwe.pdf <http://www.bicc.de/>, retrieved 22 January 2017. The description of Zimbabwe's diamonds as conflict diamonds may have applied very well in the early phases of exploration and exploitation, but this has since changed, with more formal exploitation and presence of a policy frame, albeit one shrouded in secrecy. See R. Saunders and T. Nyamunda (eds), *Facets of Power: Politics, Profits and People in the Making of Zimbabwe's Blood Diamonds* (Harare, Weaver Press, 2016).

7 D. Towriss, 'Buying Loyalty: Zimbabwe's Marange Diamonds', *Journal of Southern African Studies*, 39, 1 (2013), pp. 99–117.

8 G.R. Chimonyo, S. Mungure and P.D. Scott, *The Social, Economic and Environmental Implications of Diamond Mining in Chiadzwa* (Osisa, Centre for Social Research and Development, 2014).

9 Badia-Miró *et al.*, 'Introduction: Natural Resources and Economic Development – What Can We Learn from History?', in Badia-Miró *et al.* (eds), *Natural Resources*, p.i.

10 P. Le Billon, 'The Political Ecology of War: Natural Resources and Armed Conflicts', *Political Geography*, 20, 5 (2001), p. 563.

11 J.F. Bayart, in his seminal work, *The State in Africa: The Politics of the Belly* (London, Longman, 1993), views the African state as a complex and idiosyncratic socio-political construct falling outside the orbit of the Westphalian state system. He sees networks of dependence and subordination between the ruling elites and other social groups, which promotes patronage as the dominant form of political relations.

developments in these sectors. Despite robust engagements by parliament, the efforts of the respective legislatures to bring about reforms in the governance of key natural resources have achieved very little. The legislative environment is highly constrained and skewed in favour of the powerful political elites, who often have a stake in the perpetuation of an insatiable, opaque terrain where they can loot resources and fund their own agendas.

The abilities of parliaments in both Uganda and Zimbabwe are curtailed by the limits imposed upon them by their constitutional mandates. These relegate them into playing mere watchdog roles, raising issues concerning what they perceive as violations of the principles of good governance, but without playing an active part in redress or enforcement of recommendations. The 'resource curse', therefore, is more a reflection of a governance deficit than a resource abundance crisis. Research has indicated that in governments which have developed and evolved efficient systems of checks and balances, the resource curse dilemma can be mitigated.¹²

Parliaments can contribute to the enactment of laws that both regulate the extractive industries and engage with stakeholders in the creation of national dialogue and policy making within the natural resource sector. Bryan and Hoffman illustrate the fact that democratic governance requires parliament to serve three roles: citizen representation, making legislation and executive oversight.¹³ In natural resource management, lawmakers should be responsible for putting in place policy and regulatory mechanisms that effectively ensure that government exploits natural resources and allocates the revenues accountably.¹⁴

However, Scott Pegg cautions us against overstating the importance of sound policies in mitigating the resource curse. Using the case of the Chad–Cameroon oil pipeline, where the World Bank made huge investments to ensure sound policies, Pegg challenges 'the World Bank's subsequent conclusion that it can extrapolate from Botswana and create or transpose good governance and sound economic policies as intervening variables in countries with no prior history of them'.¹⁵ Despite the policy interventions, Pegg observes, 'the pipeline project has effectively privileged exports and revenue generation over institution building. Revenues have greatly exceeded original projections while capacity building has suffered repeated delays and major setbacks'.¹⁶ Pegg admits that the Chad–Cameroon pipeline experience has not been replicated elsewhere and as such might not be universalised.

Our study is inspired in part by direct experiences with the Zimbabwean and Ugandan parliaments. Data was collected from legislative statutes, policy papers, parliamentary debates, Parliamentary Committee reports, court cases and reports from both state and non-state actors. These sources helped to unpack the contributions of the parliaments from both an official and an 'independent' perspective, allowing for a relatively balanced interpretation. Having had access to material on the two parliaments, striking similarities were observed in how resources were (mis)governed. It is clear from the study that a number of parallels can be drawn on how parliaments manage resources.

The first section of the article will discuss the responses of the state, in both Uganda and Zimbabwe, to resource discovery and initial efforts in governing these resources. The second examines the role of the respective parliaments in transparency and accountability and notes that, in both Uganda and Zimbabwe, parliament has been blocked from carrying out this mandate. In our conclusion, we highlight the dilemmas of parliament in intervening in resource management.

12 See contributions in Badia-Miró *et al.* (eds), *Natural Resources*. These contributions refer to the USA, Botswana and Norway as some of the countries whose sound governance of resources has managed to prevent the resource curse.

13 S. Bryan and B. Hoffman (eds), *Transparency and Accountability in Africa's Extractive Industries: The Role of the Legislature*, (Washington DC, National Democratic Institute for International Affairs, 2007), available at http://ndi.org/files/2191_extractive_080807.pdf, retrieved 26 October 2013.

14 *Ibid.*

15 S. Pegg, 'Can Policy Intervention Beat the Resource Curse? Evidence from the Chad–Cameroon Pipeline Project', *African Affairs*, 105, 418 (2005), p. 20.

16 *Ibid.*

Resource Discovery in Uganda and Zimbabwe

Significant oil exploration in Uganda was first done by E.J. Wayland, who documented substantial hydrocarbon occurrences in the Albertine Graben region in the 1920s. The Albertine Graben region stretches from the border with Sudan in the north to Lake Edward in the south, covering an area of 24,000 square kilometres and extending into the Democratic Republic of Congo (DRC).¹⁷ In 2006, the government of Uganda confirmed the existence of commercially viable oil deposits with estimated reserves of about 2.5 billion barrels.¹⁸ The country has the potential to become a middle-scale oil producer, like such countries as Chad, the DRC and Gabon. The current national oil reserves are estimated to have the potential to generate US\$2 billion in annual revenue for more than 20 years.¹⁹ A World Bank report estimates that Uganda's revenue from oil has the potential to double within 10 years and to constitute 10–15 per cent of gross domestic product.²⁰ Uganda's oil is, however, difficult to access and will require large investments, amounting to US\$10 billion for optimal developments of the oilfields, to be realised. Full-scale production was tabled for 2016 as the country grappled with the upstream aspects of oil production, which include licensing, exploration and transportation.

As for the Zimbabwean case, diamond production prior to 2004 was limited to paltry deposits in the River Ranch Kimberlite mine near South Africa, mined by Rio Tinto between 1997 and 1998. In 2006, there was a major find in Marange/Chiadzwa in Manicaland province, which occasioned a wild diamond rush involving thousands of artisanal miners.²¹ In 2007, the government launched Operation Hakudzokwi ('you should not come back') and in 2009 Operation Dzokera Kumba ('return home'), designed to secure the diamond fields and state control through the expulsion of informal artisanal diamond diggers. Soldiers and police were deployed, resulting in conflicts with – and even some deaths of – artisanal miners, and the subsequent censure of the government of Zimbabwe by the global diamond watchdog, the Kimberley Process Certification Scheme (KPCS). Since then, there has been an international spotlight on the diamond sector in Zimbabwe. Most importantly, restrictions were imposed on the state-run Zimbabwe Minerals Development Co-operation (ZMDC) by the European Union and the US government. The European Union lifted the embargo on 25 September 2013 and allowed the trade of the precious gems in Europe.²²

The Marange find was touted as having the potential to make the country one of the largest global diamond producers.²³ Estimates are that the diamond fields have the potential to supply 20–30 per cent of global diamond production annually, generating annual revenue of US\$2 billion. Ten per cent of the diamonds found in Marange are gems and the other 90 per cent are industrial.²⁴ Companies that operated in the diamond sector in Zimbabwe were largely joint

17 B. Shepherd, *Oil in Uganda: International Lessons for Success* (Washington DC, Brookings Institution Press, 2015).

18 *Ibid.*

19 *Ibid.*

20 Global Witness, 'Donor Engagement in Uganda's Oil and Gas Sector; An Agenda For Action' (London, Global Witness, 2010), available at https://www.globalwitness.org/documents/16706/uganda_final_low.pdf, retrieved 15 October 2013.

21 For detailed discussions on the early developments in Zimbabwe's Marange diamonds, see Chimonyo *et al.*, *The Social, Economic and Environmental Implications*; Nyamunda and Mukwambo, 'The State and the Bloody Diamond Rush'.

22 'EU Lifts Sanctions on ZMDC', *The Herald*, Harare, 18 September 2013.

23 'Marange Set to Become Largest Diamond Producer', *The Chronicle*, Bulawayo, 23 August 2013, available at <http://www.chronicle.co.zw/marange-set-to-become-worlds-largest-diamond-producer/>, retrieved 26 January 2016.

24 Kimberley Process Certification Scheme, Chair's Notice, 'Production Footprint of Marange Diamond Fields', 6 May 2010, cited in M. Dhliwayo and S. Mtisi, 'Towards the Development of a Diamond Act in Zimbabwe: Analysis of the Legal and Policy Framework on Diamonds and Zimbabwe's Compliance with the Kimberley Process Certification Scheme' (Harare, Zimbabwe Environmental Law Association, 2012), available at <http://www.book.y-lib.info/17-political/377201-1-published-by-zimbabwe-environmental-law-association-zela-authors-mut.phphttp://www.zela.org/images/pdf/docs/TOWARDS%20A%20DIAMOND%20ACT%20IN%20ZIMBABWE.pdf.pdf1.pdf>, retrieved 10 November 2013.

ventures between government and foreign investors. These included the Diamond Mining Co-operation (DMC), Murowa Diamonds, Anjin, Marange Resources and Mbada Diamonds. Marange Resources was initially 100 per cent owned by ZMDC, the parastatal, which also had a 50 per cent shareholding stake in Mbada Diamonds, Anjin and DMC. In the light of declining revenue in diamond production, however, the Ministry of Mines introduced changes in the diamond-mining sector. The licences of all diamond-mining companies were revoked at the end of 2015 and the companies were consolidated to operate as one entity, the Zimbabwe Consolidated Diamond Company (ZCDC), with the state having a major stake. This was seen as a way of reducing the number of players in the sector and improving transparency and accountability.²⁵

These natural resource discoveries for both Uganda and Zimbabwe came at a propitious time. For Uganda, the withdrawal of development assistance and donor funding from a number of state projects, following protests about imprudent financial management, had prompted reduced state revenue and a series of budget deficits. For Zimbabwe, decades of economic meltdown occasioned by misguided economic policies; a chaotic land reform programme, which saw agricultural production plummeting to unprecedented low levels; and an unfavourable status internationally had all combined to create economic carnage, in which the country's dollar fell uncontrollably against hard currencies and prices reached globally unprecedented and astonishing levels of inflation. In both Uganda and Zimbabwe, therefore, the resource discoveries offered immense opportunities for economic transformation and a much-needed boom in government revenue to translate into meaningful development. At the same time, the critical malady of the resource curse stalked the two countries as they explored and exploited their precious resources.

Parliamentary Intervention in Uganda and Zimbabwe

Both Zimbabwe and Uganda explored the legislative framework in an attempt to facilitate efficient exploration of the resources that had been discovered. Parliamentary powers played a critical role in this framing. Parliament in each state has been the major platform for debating all Bills relevant to resource exploitation and for passing them into law.

In Uganda, Article 79 (1) of the Constitution gives parliament the power to 'make laws on any matter, peace, order, development and good governance'.²⁶ In the 1980s, after electromagnetic data confirmed the existence of a sedimentary basin in the Albertine Graben region, the government of Uganda enacted the Petroleum Exploration and Production Act of 1985. This Act led to the licensing of international companies to undertake seismic surveys and drilling. The 1985 Act was intended to deal with the upstream aspects of the oil industry, largely to do with exploration and extraction. It was thus not intended to deal with downstream activities, such as the political and economic implications of oil extraction. The new Constitution of 1995 in Uganda had not envisaged the further discovery of oil and gas resources. A constitutional amendment in 2005 inserted a provision on gas and oil in Article 244, which had hitherto solely provided for other minerals. Article 244 as amended in 2005 of the Constitution of Uganda specifically obliges parliament to make laws regulating the oil and gas sector. It states:

(1) Subject to article 26 of this Constitution, the entire property in, and the control of, all minerals and petroleum in, on or under, any land or waters in Uganda are vested in the Government on behalf of the Republic of Uganda. (2) Subject to this article, Parliament shall make laws regulating – (a) the exploitation of minerals and petroleum; (b) the sharing of royalties arising from mineral and petroleum exploitation; (c) the conditions for payment of indemnities arising out of exploitation

25 'Marange Diamond Licenses Has Now Expired: Minister', *Zimbabwe Independent*, Harare, 30 October 2015.

26 Constitution of Uganda (1995), Article 79.

of minerals and petroleum; and (d) the conditions regarding the restoration of derelict lands. (3) Minerals, mineral ores and petroleum shall be exploited taking into account the interest of the individual landowners, local governments and the Government.²⁷

The absence of a comprehensive legal framework led to the promulgation of a National Oil and Gas Policy in 2008 by the government as an ad hoc governance framework pending the enactment of comprehensive legislation.

The 2008 Oil and Gas Policy espouses as some of its objectives the efficient, effective management of Uganda's oil and gas resources; encouragement of transparency in the management of the industry; and ensuring that revenues from the oil and gas sectors are properly managed and utilised to create wealth.²⁸ Among its principles, the policy highlights efficient resource management, and the need to insulate the economy from shocks of oil prices by creating a Ugandan Petroleum Fund. It emphasises other key issues, such as transparency, sustainability, conflict resolution and meeting the needs and demands of the local communities. It also envisages specific roles for various government departments involved in oil and gas, such as the Ministry of Energy, the National Oil Company and the National Petroleum Authority. Section 7.2.1 of the policy provides that parliament should be in charge of monitoring performance in the petroleum sector through policy statements, annual budget reviews and the creation of an oversight committee on the oil and gas sector.²⁹

However, the National Oil and Gas Policy did not provide an adequate framework for effective governance. It left undefined several key fundamental governance issues relating to effective oversight, such as ensuring that a cogent legislative framework to regulate oil exploration and production was in place. Meanwhile, despite the apparent absence of laws to regulate the oil and gas sectors, the government had already begun handing out contracts to oil companies without the approval or ratification of parliament. The situation promoted the emergence of an opaque oil-governance terrain, which could be manipulated by corrupt state officials for personal gain. David Simon interrogates this dynamic, of primitive accumulation by state officials in an environment of systematic opacity and governance disruption, as being a key feature in most oil-rich African countries.³⁰ Corruption and bad governance construct a pervasive political economy of appropriation, which facilitates leakages of revenue and deprives the state of resources that could otherwise be allocated to productive human development and poverty alleviation.

In an attempt to control the industry and the public capture of revenue, parliament in Uganda initially used the common means of passing motions, initiating questions, conducting public hearings and summoning ministers before committees; but without much success. The absence of a comprehensive legal framework within the oil sector compelled parliament to challenge government in a more 'forceful' way over how oil exploration was being undertaken. In October 2011, parliament moved a resolution to convene a special session, which implored government to submit all the necessary bills for the development of the oil sector for consideration within 30 days from the date of resolution. Parliament also declared a moratorium on the granting of new oil exploration licenses in October 2011, until specific conditions had been fulfilled by the government, including: the passage of all the necessary laws; the review of all the production sharing agreements (PSAs) by government; accountability of revenue so far received from the sector covering licence fees, signature bonuses, taxes and royalties; and the removal and

27 Constitution of Uganda, Amendment Act (2005), Article 244.

28 Uganda National Oil and Gas Policy (2008), available at <http://www.energyandminerals.go.ug/downloads/NATIONALOILANDGASPOLICYFORUGANDA.pdf><http://www.energyandminerals.go.ug/downloads/NATIONALOILANDGASPOLICYFORUGANDA.pdf>, retrieved 26 January 2016.

29 *Ibid.*

30 David Simon, 'Urban Thermals and Rural Oils – A Tale of Contemporary Africa', *African Geographic Review*, 31, 1 (2012), pp. 80-87.

desisting from executing contracts within the oil industries with confidentiality clauses. Perhaps predictably, however, this moratorium was ignored by the executive, which went on to award two oil producing agreements with the Anglo-Irish firm Tullow Oil on 3 February 2012.³¹

The 30 days to bring laws governing the petroleum sector, granted to the executive by parliament, expired without any bills being tabled before the house. On 8 and 15 February 2013, however, the government tabled two petroleum Bills before parliament, the Petroleum Expropriation, Development and Production Bill; and the Petroleum Gas Processing and Conversion, Transportation and Storage Bill. Both were intended to give effect to Article 244 of the Constitution. The former was to regulate petroleum refining, gas processing and conversion, transportation and storage of petroleum, promoting policy formulation, and coordination and management of petroleum refining, gas processing and conversion. The latter was to regulate petroleum exploration, development and production; to establish the Petroleum Authority of Uganda, to provide for the National Oil Company; and to regulate licensing, among other things.

The Petroleum Expropriation, Development and Production Bill stirred a lot of controversy and debate in the House with regards to certain provisions within it. Specifically, Clause 6 was viewed as giving a monopoly of powers over the allocation, approval and revocation of exploration licences to the Minister of Energy and Mineral Development. Opposition MPs and some from the ruling party virulently opposed the passage of the Bill and called for the repeal of Clause 6. Civil society organisations also protested that there should be established a Public Interest Accountability Committee to provide executive oversight, as was the case in Ghana.³² The dominant party in government, the National Resistance Movement (NRM), was eventually able to use its majority in parliament to force the bill through on 7 December 2012 without taking on board the proposed amendments.³³

The controversial Bill established the Petroleum Authority of Uganda to monitor and regulate the exploration, production process, transportation and storage of petroleum in the country. A Global Witness briefing report in 2010 stated that although the bill provided for the independence of the Authority, it also empowered the minister to give policy directives to the Authority and required compliance with those directives.³⁴ The report further criticised the bill for making the appointment of key figures in the petroleum industry fall outside the purview of parliament.³⁵ The Minister of Petroleum was a presidential appointee who had the absolute powers to appoint key positions in the National Petroleum Authority, without parliamentary oversight. The report notes that '[t]his creates the risk that the oversight function of parliament over the Petroleum Authority is negated, and positions could be given out on the basis of personal connections and loyalties, rather than on merit'.³⁶ George Boden, a campaigner with Global Witness, noted that Clause 6 had the potential to allow the minister to initiate deals behind closed doors with no public scrutiny, which at worst might to promote corruption, and at best certainly did nothing to limit it. He added, 'despite the best efforts of some MPs the new law looks set to perpetuate the status quo of secrecy, excessive ministerial control and corruption allegations'.³⁷

Parliament's intervention in the case of Uganda was also limited by constitutional restrictions on the extent of legislative involvement in designing laws governing the oil sector. The current

31 I. Imaka and S. Naturinda, 'MPs Vow to Go to Court Over Oil Deals', *Daily Monitor*, Kampala, 11 February 2012.

32 Global Witness, 'Donor Engagement'.

33 A. Atuhairi, 'Oil Bill Finally Passed', Uganda Radio Network, 7 December 2012, available at <https://ugandaradionetwork.com/story/oil-bill-finally-passed>, retrieved 23 August 2017.

34 Global Witness, 'Donor Engagement', p. 11.

35 *Ibid.*

36 *Ibid.*

37 E. Biryabarema, 'Ugandan Lawmakers Pass Oil Bill, Worry about Corruption', Reuters, available at <https://www.reuters.com/article/uganda-oil/ugandan-lawmakers-pass-oil-bill-worry-about-corruption-idUSL5E8N7AJH20121207http://publishwhatyoupay.org/resources/key-oil-governance-issues-uganda-need-urgent-attention-parliament>, retrieved 7 November 2017.

constitution restricts parliament from making laws that impose a charge on the Consolidated Revenue Fund or withdrawal from the Fund. Consequently, MPs in Uganda cannot move private members' Bills on the oil and gas sectors, leaving the whole process to the executive. The result has been that the executive has had an overbearing influence on the spending of oil revenue, without the oversight of parliament. Ben Shepherd noted in a 2013 Chatham House briefing that the executive exercised strong influence over some key policy areas, including oil, and this power could undermine formal decision-making through parliament, notably regarding spending on defence, political campaigns and capital-intensive infrastructure projects.³⁸ The president made it very clear that he intended to shape the use of oil-related investment.³⁹ Shepherd reported that Museveni used oil funds to purchase fighter jets in 2011 at an exaggerated cost of US\$740 million, withdrawn from the Central Bank without the prior approval of parliament. Other capital investments included the use of US\$430 million in oil taxes to fund a new hydro-electric dam at Karuma.⁴⁰ Parliament remained a virtual spectator in this process.

Parliament in Uganda consistently called for the enactment of a Finance Bill, which would create a single revenue collection system to improve the haphazard scenario where oil payments were being received in different accounts. To minimise leakages and to maximise transparency, parliament argued that oil revenue be deposited in a single account, preferably with the Ugandan Revenue Authority. Consequently, a draft oil revenue management Bill was circulated in 2010 and passed in November 2014. This Bill evolved from being a thinly veiled law concentrating decision-making in the hands of the central government into a wider project to bring checks in the financial management of government revenue, including oil.⁴¹ The former Ugandan Finance Minister Dr Ezra Suruma was concerned that, although the Bill had gone a long way in establishing parliamentary oversight over the executive, it put too much power in the hands of technocrats.⁴² Earlier that year, speaking at a conference organised by Parliament Watch Uganda and Friedrich Ebert Stiftung, Suruma had observed that the 2012 Public Finance Management Bill had set the model for the new oil revenue management Bill: 'only the "little dogs" within the Finance Ministry will report to parliament, while the "big fish" report to the "bureaucrats" leaving parliament powerless'.⁴³ At the same event, the Masaka municipality MP, Matthias Mpuga, had grimly pointed out: 'I think the key issue in this Bill that needs to be addressed is empowering parliament to monitor the (petroleum) fund'.⁴⁴

In the Ugandan case, great efforts were made to secure resource governance from the time of discovery of oil in 2006, but without much success. This was largely because of the pervasive influence of the oil sector over the government executive and the rampant culture of corruption and kleptocratic behaviour in government (in David Simon's characterisation), which operated outside parliamentary oversight. Zimbabwe's diamond sector in Marange, on the other hand, faced an even worse governance deficit from 2006, reflected in a legislative and regulative vacuum: the total absence of the institution of the formal state; the propagation of shadow networks and opaque contract negotiations; and a largely corrupt system, fanned by crony accumulation, especially in the first five years or so. In this terrain, the state lost

38 Shepherd, *Oil in Uganda*, pp. 10–11.

39 In correspondence dated 19 July 2010, President Museveni ordered his Energy Minister, Hilary Onek, not to sign any oil and gas deals without his prior written consent. Reuters Africa, 'Uganda President to Approve All Oil, Gas Deals', 19 August 2010, available at <http://af.reuters.com/article/investingNews/idAFJOE67I0AU20100819?feedType=RSS&feedName=investingNews>, retrieved 21 March 2017.

40 Shepherd, *Oil in Uganda*, p. 11.

41 A. Opi-aiya Izama, 'Uganda Quietly Passes Oil Revenue Management Law', posted on *A Transition* blog, 30 November 2014, available at <http://www.angeloizama.com/angelo-opi-aiya-izama/2014/11/30/uganda-quietly-passes-oil-revenue-management-law>, retrieved 14 January 2016.

42 *Ibid.*

43 F. Nalubega, 'Uganda: Parliament Will Have No Control Over Oil Funds, Say MPs', *Agora Portal*, 21 August 2014, available at <http://www.agora-parl.org/fr/node/14447>, retrieved 10 January 2016.

44 *Ibid.*

revenue to smuggling, the illicit diamond trade and other parallel institutions of state involved in diamond mining.

The procrastination by the Zimbabwean state in coming up with a legal framework, regulations, or a policy blueprint for exploiting the diamonds, points to the involvement of powerful political interest groups in the diamond value chain, who have benefited from the environment of anarchy and opacity. This was conspicuous even during the tenure of the Government of National Unity (GNU) in the period 2008–13. Whereas in Uganda there was a straightforward split between the technocrats–executive and parliament, in Zimbabwe there was a split within the executive itself, part of which (the erstwhile opposition, the Movement for Democratic Change [MDC]) was more closely allied with parliament than with the president. The Deputy Minister of Mines was an MDC legislator who had been appointed to ensure that there were checks and balances within the ministry. Despite this, however, the polarisation and conflicts of interests within the GNU executive meant that MDC ministers had little control over the activities in the diamond mining sector. In October 2011, the Deputy Minister of Mines submitted before parliament that there were serious problems concerning remittances of diamond revenue to the treasury.⁴⁵ He also noted with concern the lack of transparency around the activities of Chinese investors operating joint ventures with the military in Chiadzwa diamond fields.⁴⁶

It is little wonder, then, that the global diamond watchdog, the Kimberley Process Certification Scheme (KPCS), in November 2009 considered rough diamond mining in Marange, eastern Zimbabwe, to be non-compliant with its basic minimum requirements. This decision was taken following widely publicised and documented evidence of government-sponsored illegal mining, smuggling and gross human rights abuses, including cases of state security apparatus brutality: beating, torture, harassment and killings of civilians by the military in the diamond fields of Chiadzwa.⁴⁷

In November 2012, partly in response to the Kimberly Process scrutiny, and six years after the discovery of diamonds and the commencement of mining activities, the GNU in Zimbabwe finally unveiled a diamond policy. This was claimed to provide a framework for promoting transparency in the Zimbabwean diamond industry and its sustainable development for the benefit of all Zimbabweans. The policy spelled out the legal framework to govern the sector.

The policy emphasised that the state was the sole owner of national diamond resources. In addition, it conferred legislative and administrative primacy to the Mines and Minerals Act in the governance of diamonds.⁴⁸ The Mines and Minerals Act was enacted in 1961 and has since been amended several times. It is outdated and inadequate to confront fully and cater for the contemporary challenges in the mining sector. Like the Ugandan Petroleum Act (2012), it gives the Minister of Mines the monopoly of powers to make approvals or reject applications and make unilateral decisions in the granting of licences and contracts to prospective investors in diamond mining.

45 'Chinese Strike Diamond Riches', *Financial Gazette*, Harare, 21 October 2011.

46 In an interview with *The Zimbabwean* newspaper in January 2013, the deputy Minister of Mines noted that diamonds were being smuggled to China through unofficial channels by the military in exchange for military equipment without any valuations being done on the true worth of the gems. See 'Diamonds Bartered for Guns – Minister', *The Zimbabwean*, Harare, 16 January 2013, available at <http://www.thezimbabwean.co/2013/01/diamonds-bartered-for-guns-minister/>, retrieved 1 March 2017.

47 A. Martin and B. Taylor, 'Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe', Partnership Africa Canada Report, Ottawa, 1 June 2010, available at <https://www.africaportal.org/publications/diamonds-and-clubs-the-militarized-control-of-diamonds-and-power-in-zimbabwe/>, retrieved 16 October 2014.

48 Centre for Natural Resource Governance, 'An Analysis of Zimbabwe Diamond Policy', Harare, 17 April 2013, p. 4., available at <http://www.eisourcebook.org/cms/Zimbabwe%20Diamond%20Policy%20Analysis%20-%20Centre%20for%20Natural%20Resource%20Governance.pdf> http://www.pacweb.org/Documents/diamonds_KP/Zimbabwe-Diamonds_and_clubs-eng-June2010.pdf, retrieved 7 November 2017.

The Act also makes provision for the issuing of special mining leases in the interests of the mineral sector by the Minister of Mines. Consequently, the Minister has absolute powers, which can potentially be abused and result in the issuing of mining licenses without due regard being given to the process of tender. It is not simply the absence of a tender process that is problematic, because such processes can easily be subverted behind closed doors: the process of tender itself has to be transparent. A report from Zimbabwe's Centre for National Resource Governance in April 2013 criticised the Mines and Minerals Act for establishing no role for the Parliamentary Committee on Energy or any other stakeholders in the issuing of mining licenses.⁴⁹

Unsurprisingly, there have been calls to review the legislative infrastructure of diamond mining and come up with laws which address the novel, unique governance challenges that diamonds pose. For instance, while the present legal framework regulates the issuing of mineral rights, marketing and trade in diamonds, it is not adequate to curb illegal digging and smuggling and illicit trade.⁵⁰ In its first report on diamond mining in June 2013, the Portfolio Committee on Mines and Energy submitted that there was a need for a comprehensive law to regulate the diamond sector, since the existing laws were inadequate to ensure compliance, transparency and accountability in the industry.⁵¹ A study by the Zimbabwe Environmental Law Association on the legal framework governing diamond mining in Zimbabwe also concluded that the existing laws do not address all the relevant minimum KPCS requirements and standards, hence the need to enact a new statute.⁵² The study pointedly asserted that the absence of a clear, specific legal framework to set control measures and systems to curb illegal mining, smuggling and leakage of rough diamonds in Zimbabwe was an issue of major concern.⁵³

In both Zimbabwe and Uganda, parliament's effectiveness in intervention has been compromised by the fact that parliament is largely an extension of the political fiefdoms of the ruling clique and the entrenched interest groups, who have an overbearing, suffocating influence on its decisions. Networks of political patronage largely pervade and undercut the sanctity and autonomy of parliament. The disproportionate balance of power between legislatures and the more powerful executives, and political party loyalties, which often take precedence over legislative functions, combine to halt the pursuit of a progressive legislative or oversight programme.

The World Bank's paper on transparency and accountability in the extractive industries argues that political party loyalty often takes precedence over transparency and accountability, and executive initiatives are rarely questioned or debated in legislative bodies: opposition legislators often lack the ability or motivation to raise divergent points of view.⁵⁴ Bryan and Hofmann state that 'in countries where ruling party control is pervasive, legislatures are often used to rubber stamp executive policy after little or no debate'.⁵⁵ Constitutions, legislation and other rules of procedure vest significant legal authority in the executive, thereby diminishing the influence of the legislators in the oil and mining sector. In both Uganda and Zimbabwe, the preponderance of the ruling party and political party loyalty has fuelled indifference on the part of parliament to close scrutiny of executive policies and programmes on the extractive industries.

49 *Ibid.*, p. 6.

50 Dhlwayo and Mtisi, 'Towards the Development of a Diamond Act'.

51 Parliament of Zimbabwe, 'First Report of the Portfolio Committee on Mines and Energy on Diamond Mining with special reference to Marange Diamond Fields, 2009–2013', Harare, Hansard Collection of Votes and Proceedings of Parliament (unpublished).

52 Dhlwayo and Mtisi, 'Towards the Development of a Diamond Act'.

53 *Ibid.*

54 World Bank Institute, 'Report on Parliamentary Oversight of the Extractive Industries Sector', p. 11, available at https://www.agora-parl.org/sites/default/files/parliamentary_oversight_and_the_extractive_industries.pdf http://www.agora-parl.org/sites/default/files/parliamentary_oversight_and_the_extractive_industries.pdf, retrieved 1 March 2017.

55 S. Bryan and B. Hofmann (eds), *Transparency and Accountability in Africa's Extractive Industries: The Role of the Legislature* (Washington DC, National Democratic Institute for International Affairs, 2007), p. 11.

Parliament's Role in Transparency and Accountability: An Exercise in Futility?

This section looks at efforts by parliament in both Uganda and Zimbabwe to ensure transparency and accountability in resource exploration and exploitation. The article has already noted how the Ugandan and Zimbabwean parliaments failed to create the effective legislative instruments for resource governance in their respective countries. What follows provides further evidence of how parliament's efforts at achieving transparency in both Zimbabwe and Uganda have been mired. One of the chief roles of parliament is its performance of oversight over the executive, scrutinising policy and executive decisions, and ensuring compliance. In natural resource governance, parliament has to be robust in its scrutiny of the whole value chain of the extractive industry. In this way, institutional quality can be achieved to a certain degree.

In both Zimbabwe and Uganda, the major governance challenge in parliament's oversight role is the hurdle of limited access to information about resource exploration. In Uganda, the Executive has limited access to information on all the activities around the oil sector, and the confidentiality clauses have limited the accessibility of the oil agreements to the public. Publish What You Pay (PWYP), the global coalition of civil society organisations campaigning for an open and accountable extractive sector, lamented in its 2011 Report on Uganda that existing oil production and sharing agreements contained confidentiality clauses that denied Ugandans, including parliamentary representatives, the right to access and debate the contents therein. The report reads, '[b]y putting the confidentiality clauses in the production sharing agreements, the government and oil companies have usurped the powers of ownership of the oil resources'.⁵⁶ The role of parliament in playing its oversight role has routinely been overridden with impunity by the executive.

The Oil Watch Network and Publish What You Pay Uganda, in their October 2011 report, titled 'Key governance issues that need the attention of parliament', noted with concern the prevailing secrecy in the oil sector despite the existence of Article 41 of the 1995 Constitution and the Access to Information Act 2005, which provide for the full right of all Ugandans to information in the hands of government. The report notes: '[g]overnment has to date continued to be secretive on all oil development processing including licensing, production and sharing agreements, environmental impact assessments, tax collection and revenue utilization'.⁵⁷ It also raised concerns over confidentiality clauses in the oil production and sharing agreements that denied Ugandans the right to see and debate the contents. The Petroleum Exploration, Development and Production Bill also severely limited public access to key information and did not require any public disclosure on the amounts of oil extraction from the ground or the revenue generated by the industry.

In February 2010, a Ugandan court dismissed a freedom of information petition to access information on the oil deals, citing national security as justification.⁵⁸ During the special session to debate the oil and gas sectors in parliament, the Minister of Energy and Mines Development submitted ten confidential agreements on the sector to parliament. However the Speaker, using the Constitution and Rules of Procedure, issued strict guidelines on how MPs and authorised personnel could access those agreements, noting that the Petroleum Exploration and Production Act prohibited disclosure of such information.⁵⁹ The absence of clear information regarding the process of oil exploration quickly created confusion and misinformation regarding the process at the local level, both in the districts where oil exploration had been taking place

56 Biryabarema, 'Ugandan Lawmakers Pass Oil Bill'.

57 *Ibid.*

58 'Court Dismisses Petition to Reveal Uganda's Oil Agreements', *Daily Monitor*, 4 February 2010.

59 E. Okapi, 'Developments in the Oil and Gas Sectors in Uganda', *The Parliamentarian*, 1 (2012), pp. 32–5, available at www.cpahq.org/CPAHQ/CMDownload.aspx?ContentKey=20d00e46-8a30, retrieved 9 October 2017.

and in prospective areas. This has been made worse by delays in the formulation of clear, comprehensive legislation for distribution of oil revenues.

In October 2011, an ad hoc Ugandan parliamentary committee was set up to investigate the allegations that three ministers, Amama Mbabazi (Prime Minister), Sam Kutesa (Foreign Affairs), and Hilary Onek (Disaster Preparedness) had accepted bribes from Heritage Oil & Gas and Tullow to influence the award of favourable contracts. Western Youth MP Gerald Karuhanga tabled documents before the House indicating that the three ministers had received money from the said companies through the Mellon Bank in the USA and EFG Private Bank in Nairobi.⁶⁰ Parliament requested that the three ministers step down to pave the way for the enquiries. Only the Foreign Minister, Sam Kutesa, stepped down, while the Prime Minister and Hilary Onek refused to comply. The committee's terms of reference also encompassed examination of the process of procurement for all companies involved in the oil sector. However, the *ad hoc* committee of enquiry failed to come up with evidence to convict the three ministers, despite circumstantial indications that they may indeed have been involved in the bribery scams.⁶¹

In Zimbabwe, parliament has similarly faced hurdles regarding access to information about the exploitation and exploration of diamonds. The Zimbabwe National Diamond Policy asserts that 'all exploration information and data belongs to the state' and that 'there shall be access to diamond trade and financial records of all companies involved in diamond activities by the Ministry of Mines and Mining Development or its appointed agents'.⁶² While this statement nobly reflects the realisation that access to information is a key ingredient in good governance of the diamond sector, the reality on the ground, as in Uganda, has shown that the state has created a highly mysterious environment around the major activities in the diamond value chain, which has compromised effective and accountable models of governance in the sector. The Portfolio Committee of Mines and Energy, in its report, noted:

[s]ince the inception of formalized mining in Chiadzwa, the Committee observed that the sector has been dogged with issues of transparency and accountability in the production, marketing, fiscal contributions and general administration. The Committee noted with concern that there was lot of work that still needed to be done to improve on transparency and accountability in the entire value chain of the country's diamonds.⁶³

In April and August 2010, the committee was denied access to the Chiadzwa diamond fields to conduct an enquiry into the activities of mining companies and the operations taking place there.⁶⁴ The pretext given was that the committee needed clearance from the police first, since the area was restricted under the Protected Places and Areas Act. It was only in 2012, two years later, that the committee was eventually given permission.

This delay was compounded by the unwillingness of the executive to divulge information to the committee. The committee, in its first report, noted that 'a contestation for power between the Executive and the Legislature over access to information'⁶⁵ had been one of the hurdles which resulted in the delay in publishing its final report on the diamond sector. The same report concisely documents how the executive was deliberately frustrating the committee and was unwilling to be held accountable, contrary to the spirit of Standing Order No. 167, which empowers Portfolio Committees to hold government to account through summoning public officials to appear before them. In more than one instance, officials from the mining companies

60 R. Kasawira, 'I Still Insist These Oil Documents Are Genuine', *Daily Monitor*, 6 November 2011, available at <http://www.monitor.co.ug/Magazines/PeoplePower/689844-1267830-ri0qadz/index.html>, retrieved 10 October 2017.

61 E. Ssekika, 'Parliament Clears Tullow of Corruption Allegations', *The Observer*, Kampala, 17 December 2013, available at <http://observer.ug/component/content/article?id=29178:parliament-clears-tullow-of-corruption-allegations>, retrieved 10 October 2017.

62 Centre for Natural Resource Governance, 'An Analysis of Zimbabwe Diamond Policy', p. 8.

63 Parliament of Zimbabwe, 'First Report of the Portfolio Committee on Mines and Energy'.

64 *Ibid.*

65 *Ibid.*

failed to appear before the committee and, in its report, the committee grimly noted that there might have been the influence of the Minister of Mines behind those intransigent decisions. The committee in the same report also queried the joint venture agreements signed between government, through the state subsidiary Zimbabwe Minerals Development Co-operation, with two firms, Reclaim and Core Mining, which led to the formation of Mbada Diamonds and Canadile Miners pvt Ltd, respectively.⁶⁶ It noted that the processes followed were not in accordance with any known precedents or with reference to any legislation in the country. As in the Ugandan case, these queries did not yield much, nor did they see the emergence of greater accountability or transparency.

The lack of access to information in the governance of the diamond sector in Zimbabwe has created rampant corruption and leakages in revenue from the diamonds. Consequently, the country has not realised maximum benefits, while the emergence of parallel networks has catalysed smuggling and illegal diamond sales. It is estimated that this has cost the fiscus billions. A report by Partnership Africa Canada estimated that in 2008 there were more than 500 illegal diamond syndicates operating in Manicaland province. A later report that it published claimed that Zimbabwe may have lost up to US\$2 billion in diamond mining revenue.⁶⁷ An opposition MP for the Movement for Democratic Change estimated that, in the year 2012 alone, the government had extracted US\$4-billion worth of diamonds, with the majority of that money not being accounted for.⁶⁸ The Portfolio Committee on Mines and Energy made submissions in 2013 to the effect that government had not realised any meaningful contributions from the sector, despite increased revenue generation.⁶⁹

Diamond revenue has largely remained a contested terrain, with a lot of conflicting statements and reports concerning the actual amount of proceeds that the country is getting from the exports. This has further created an environment of suspicion, mistrust and hostility towards the government. In 2011, during the presentation of the mid-term fiscal policy review, the MDC Minister of Finance pointed out the deleterious effects of bad governance mechanisms in the rough diamond sector, which he insisted had a tendency towards generating 'suspicion, conflict and national dislocation'.⁷⁰ This tendency was made more manifest by the ambiguities that shrouded the actual submissions to the treasury by the mining companies and the accompanying circus involving the Minister of Mines and the Minister of Finance over the actual figures. The Minister of Mines made claims that he had submitted US\$174 million to the treasury in 2011, a claim rebutted by the Minister of Finance, who insisted he had received only US\$62 million.⁷¹ The following year, the Finance Minister decried the fact that Anjin Investments pvt Ltd, which owned the nation's biggest diamond mining company, had yet to submit any tax to the national treasury: '[w]e have not received a single cent from Anjin, yet Anjin is seven times bigger than some of the other (diamond) companies'. The minister added: 'Clearly, we fear as the ministry of finance [*sic*] that there might be a parallel government somewhere in respect of where these revenues are going'.⁷²

66 Canadile's mining licence was withdrawn by government over allegations of corruption in 2010.

67 Partnership Africa Canada, 'Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields', November 2012, available at <https://impacttransform.org/wp-content/uploads/2017/09/2012-Nov-Reap-What-You-Sow-Greed-and-Corruption-in-Zimbabwes-Marange-Diamond-Fields.pdf> http://pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf, retrieved 12 November 2013.

68 B. Chiketo, 'Zimbabwe: Marange Diamonds – ZANU PF's Best Friend', 4 February 2013, available at <http://www.minesandcommunities.org/article.php?a=12136> <http://www.minesandcommunities.org/article.php?a=12136> <http://thinkafricapress.com/zimbabwe/diamonds-marange-zanu-pfs-best-friend>, retrieved 23 August 2017.

69 Parliament of Zimbabwe, 'First Report of the Portfolio Committee on Mines and Energy'.

70 T. Biti, Minister of Finance, quoted in the 2011 mid-year fiscal policy review statement, pp. 30–31.

71 Reported by Jameson Timba, Minister of State in the Zimbabwean Prime Minister's Office, at a reception on the eve of the EITI Global Conference, 1 March 2011, Paris, cited in Revenue Watch Institute, 'The Facts About Disclosure Requirements', available at <https://www.sec.gov/comments/s7-42-10/s74210-87.pdf>, retrieved 21 March 2017.

72 *Zimbabwe Daily*, Harare, 'Chinese Firm not Remitting Diamond Cash', 17 May 2012, available at <http://www.thezimbabwedaily.com/news/11782-chinese-firm-not-remitting-diamonds-cash.html>, retrieved 21 March 2017.

The net impact of all this was a tumultuous decline in diamond production in Zimbabwe and a resulting constrained budget. During the pre-budget seminar presentations to the legislature in October 2015, the Minister of Mines, Walter Chidhakwa, revealed that national diamond production stood at 2,241,000 carats, which was a 30 per cent drop from 2014, when 4,773,000 carats had been mined.⁷³ These figures become even more stark when juxtaposed with the production figures for 2013, when 15,000,000 carats had been mined.⁷⁴

Clearly, in both Uganda and Zimbabwe, parliament has failed to play an effective role in engendering transparency and accountability in the exploration and exploitation of oil and diamonds. This has partly been as a result of limitations imposed by the state, and partly a result of the loopholes in the legislative frame. In either case, parliamentarians seem powerless to enforce full transparency or accountability, and cannot insist on full tax receipts from the oil and diamond companies.

Conclusion

Scholars have routinely underlined the importance of the good governance of resources to avoid the 'resource curse'. Countries that have had good institutional frameworks, such as Norway and Botswana, have been able to 'experience both natural resource abundance and export dependency without a curse'.⁷⁵ In Norway, after the discovery of oil and gas in the 1960s, the legislature played a critical role in overseeing the management of the oil and gas industry by creating a framework for the oil and gas sector, passing legislation and other instruments, debating white papers outlining executive branch proposals, and approving these major development projects.⁷⁶

We have shown that parliaments in Uganda and Zimbabwe have not, by contrast, been able to play an effective role in instigating good institutional controls. They have yet to find ways to insist on the passage of legislation that obliges mining companies to publish revenue, and that creates transparent tendering systems, subject to parliamentary reviews, before the award of contracts. In trying to carry out their mandate of enforcing executive accountability and bridging the gap between the executive and the citizens, parliaments discover that powerful vested interests in government have at their disposal a broad array of legal, constitutional and institutional weapons that can be used to resist encroachment on executive autonomy.

Indispensable components of a robust natural resource governance regime include a good legal framework governing the award of contracts, the actual mining of diamonds and production of petroleum, and the distribution of revenue. It is, therefore, disheartening to note that the role of parliament in this process is largely minimal in the countries discussed here, and restricted to consideration of statutes and bills from the executives. The absence of legislative initiative in directly crafting laws to govern the oil and diamond sectors in Uganda and Zimbabwe, respectively, has meant that the bad practices in governance have not been redressed and the executives have been slow to bring in the key recommendations of the legislature.

The case studies of Zimbabwe and Uganda reveal that developing nations with weak institutions of governance face a serious governance litmus test in the wake of natural resources discovery. Democratic institutions such as parliament in such states are simply inchoate institutions, which are not able to check the inclinations of the predatory elites seeking to secure personalised control and rampantly loot natural resources. A common outcome of this crony accumulation syndrome is the militarisation of the natural resource and the creation of

73 Parliament of Zimbabwe, 'Report of the Pre-Budget Seminar held at Elephant Hills Resort', Victoria Falls, 19–23 October 2015, Hansard Votes and Proceedings Collection, Harare (unpublished).

74 *Ibid.*

75 E. Hillbom, 'Botswana: Caught in a Resource Trap', in Badia-Miró *et al.* (eds), *Natural Resources*, p. 89.

76 World Bank Institute, 'Report on Parliamentary Oversight of the Extractive Industries Sector', p. 10.

an enclave economy, which is largely underpinned by corruption, bribery, smuggling, opaque deals and a host of other nefarious economic transactions. Systems and institutions controlling oil exploration in Uganda and diamond mining in Zimbabwe have remained largely outside the control and oversight of parliament.

Acknowledgements

The authors thank their editor, Diana Jeater, and the anonymous reviewers for their useful comments and suggestions on various drafts of this article.

ELIJAH DORO

PhD candidate, History Department, Stellenbosch University, Private Bag XI, Matieland, 7602, South Africa. E-mail: elijahdoro0@gmail.com

USHEHWEDU KUFAKURINANI

Economic History Department, University of Zimbabwe, PO Box MP167, Mount Pleasant, Harare, Zimbabwe. E-mail: ushehwedu@gmail.com

