



Advancing the governance of extractives at the local level

Towards politically smart support

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Key messages

- Environmental and Social Impact Assessment (ESIA), implemented to its full potential, can support the governance of extractives at the local level
- The implementation of ESIA in developing countries has been found to be relatively ineffective. Despite the potential for ESIA to be used to support the governance of extractives at the local level, donors have not invested in supporting its implementation
- Much of the analysis of the reasons for weak implementation of ESIA in the literature has focused on form, including the lack of procedural correctness and the low level of resources and capacity among the staff of environmental protection agencies and national consultants, which prevent ESIA being correctly implemented. The debate has not been informed by political science scholarship on why formal regulation and administrative structures in developing countries do not produce the outcomes they were designed to produce.
- Recent work in political settlement theory which draws on insights from this scholarship shows promising findings in terms of understanding how different political arrangements can affect the implementation of pro-development policy. The categorisation of different political settlements allows for some tentative recommendations on how to support pro-development policy within different political and power configurations.
- The potential for political settlement theory to inform donor strategy on supporting the implementation of ESIA should be further explored.

1. The role of Environmental and Social Impact Assessment in the governance of extractives at the local level

Over the past decade, donors have increasingly been allocating funding to support the ‘governance of extractives’. Much of the debate around this, particularly in Sub-Saharan Africa, has focused on how to support policy to prevent the so-called ‘resource curse’. Much less time has been devoted to analysing how to support governments to manage negative impacts at the local level. As a result, donor support has been focused predominantly on the financial issues (revenue generation and management) associated with extractives rather than the environmental and social issues (Lipschutz and Henstridge, 2013).

This focus on resource curse and revenue management by donors may prove short-sighted. In an attempt to understand the relationship between extractives and poverty, Gamu, Le Billon, and Spiegel (2015) reviewed 52 empirical studies published between 1997 and 2013. They found that, while industrial mining was in some cases associated with poverty reduction among the directly impacted population, it was more frequently associated with poverty exacerbation. Gamu et al. include destruction of directly impacted communities’ environment in their assessment of poverty.

First conceived of in the 1960s in the US, largely in response to the environmental degradation communities were experiencing as a result of extractive industries, Environmental and Social Impact Assessment (ESIA) was designed to promote mitigation of the negative environmental and social impacts associated with large-scale development projects. Mitigation can occur through avoiding impacts (e.g. by not allowing inherently damaging developments to be implemented) or by reducing or offsetting impacts (e.g. through design choices and monitoring arrangements). Following implementation in the US, nearly every country in the world adopted ESIA. The extent to which ESIA policy was so widely adopted is an indication of its global appeal. Indeed, some consider it

the most influential policy innovation of the 20th century (Bartlett, 1988; Caldwell, 1998).

There has been recognition of the relevance of ESIA for international development: ESIA legislation is in place in some countries partly as a result of donor pressure or encouragement. Over the past 20 years, the World Bank has developed a set of environmental and social safeguards¹ that require borrowing governments to carry out ESIA for any large-scale development projects likely to have negative environmental and social impacts. These projects are mostly infrastructure projects such as hydropower dams, road construction, etc. Other development banks, including the African Development Bank, the Asian Development Bank and the European Investment Bank, have followed the World Bank’s lead and also require ESIA to be carried out prior to the approval of funding. Last year, the UN Development Programme (UNDP) launched its Social and Environmental Standards (SES), which required an assessment of the environmental and social impact of all UNDP programmes for their environmental and social impact.

The problem with the current use of ESIA by development banks and UNDP as a set of procedures that need to be adhered to for access to funding is that this has fostered an image of ESIA as a tick box exercise rather than as a set of procedures that can contribute towards effective governance of large-scale development projects, including extractives. There is little recognition among many extractive governance advisors of the potential impact of the full range of procedures recommended for best practice ESIA that should influence decision-making around large-scale projects and guide the management of all major impacts. Fully implemented, these procedures potentially allow directly affected communities to influence decisions about whether a project should go ahead in their area; to negotiate social and economic benefits to compensate for environmental degradation and loss of land; to increase the accountability of companies to communities; and to guide a company/government in managing the conflict and tensions that often arise in response to large-scale extractive projects.

1 The World Bank is currently reviewing its safeguards with the aim of harmonising them with the International Finance Corporation (IFC) Performance Standards, which are equivalent to gold standard ESIA.

2 As there has been much more research on the effectiveness of EIA than on Social Impact Assessment (SIA), this paper draws on this body of research to understand why EIA has not been as effective in developing countries as had been hoped. The insights gained from the analysis of EIA can, for the most part, be applied to ESIA.

2. The problem with ESIA in developing countries

In the majority of developing countries, recent assessments of Environmental Impact Assessment (EIA)² performance have found it to be lacking (Bitondo et al., 2014; Clausen et al., 2011; Khadka and Shrestha, 2011; Marara et al., 2011).³ These studies echo findings from earlier assessments of EIA in developing countries (e.g. Briffett, 1999; El-Fadl and El-Fadel, 2004; Kakonge and Imevbore, 1993), which found widespread weaknesses during the initial years of implementation.⁴ Donors have been active in supporting recipient countries to develop appropriate ESIA regulation and legislation, but they have typically not played a strong role in supporting the implementation of these.⁵ Considering that the negative environmental and social impacts of large-scale infrastructure projects can be substantial, the weakness of ESIA in developing countries should be raising more alarm among the development community.

2.1 Why has ESIA not had the intended impact in developing countries?

Initial assessment of EIA in developing countries tended to focus on the presence, or lack of, legislative and administrative structures understood as necessary for effective implementation. Some of the early studies (e.g. Glasson and Salvador, 2000) acknowledged the influence of political and economic factors but most studies identified weak legislation, administrative structures, omissions in procedures and limited capacity among implementing governments, EIA practitioners and developers (e.g. Ahammed and Harvey, 2004; Ahmad and Wood, 2002; Alemegi et al., 2007; Ali, 2007; Glasson and Salvador, 2000). In the 2000s, many developing countries made significant progress in developing appropriate legislative and administrative frameworks to enable the effective implementation of ESIA, including Kenya, Rwanda, Tanzania (Marara et al., 2011), Egypt, Uganda (Ali, 2007), Bhutan, India, Nepal (Khadka and Shrestha, 2011) and Vietnam (Clausen et al., 2011).

In light of the continuing weak effectiveness of EIA, a number of authors started to consider context as a key factor influencing EIA outcomes (e.g. Clausen et al., 2011; Kolhoff et al., 2009; Marara et al., 2011). Kolhoff et al.

proposed that context, including international donors and finance institutions, institutional and legal frameworks, political and administrative systems, socioeconomic systems and the natural environment, was key to understanding the performance of EIA systems.

To date, only a limited number of studies have taken seriously the extent to which politics works to influence, and in some case prevent, ESIA findings from having an impact on decision-making in developing countries. Two recent studies included ‘political will’ in their evaluation of EIA performance in specific countries, but analysis of how this affects outcomes is limited. (Marara et al. 2011) identified Rwanda as having high political will and Kenya and Tanzania as exhibiting low political will with reference to ESIA implementation. The recommendations that emerged from this analysis focused on the procedural aspects of EIA implementation, with no reflections provided on how to work in the Kenyan and Tanzanian contexts, how to capitalise on the high political will in Rwanda or whether indeed political will is similar across different components of the administration. Clausen et al.’s study in Vietnam found that, despite the adoption of well-developed EIA legislation in 2005, a lack of capacity and political will had hampered implementation, but the article did not explore the structures that enable political will to hamper implementation.

A small number of case studies describe the impact of politics on how ESIA works in developing countries (Arbelaez-Ruiz et al., 2013; Bebbington and Bury, 2009; Goldman, 2001; Tang and Huhe, 2014). Arbelaez-Ruiz et al. highlight that the legal and regulatory requirements that governments and regulators design and implement for ESIA are only one element of the process, and that the decision as to whether a project should go ahead and under what conditions is a complex one that many will seek to shape. Power is recognised as a key factor that dictates who gains access to the decision-making process and whose knowledge and/ or concerns are valued over another’s. Other efforts to model the range of factors that influence the implementation of ESIA in developing countries identify ‘the political system’ as ‘the most important context factor influencing the rules of policy-making and the power of the different actors involved ‘in developing EIA legislation’ (Kolhoff et al., 2013:

3 The effectiveness of ESIA has also been critiqued in developed countries (Nykqvist and Nilsson 2009; Wood, Dipper, and Jones 2000; Zhang et al., 2013), but this criticism has been largely focused on why ESIA does not influence decision-making in substantive ways or does not ensure negative environmental and social impacts are appropriately managed. However, ESIA ineffectiveness in developing countries is more extensive (Kolhoff et al., 2009) and projects, particularly those of national importance, are often approved regardless of the findings of an ESIA (e.g. Kolhoff et al., 2016; Marara et al., 2011).

4 There has been some debate on how to measure the effectiveness of EIA (Cashmore et al., 2004; Jay et al., 2007). The debate revolves around whether EIA should be evaluated according to procedural requirements or its substantive performance – that is, whether it achieved its objectives of influencing decision-making and mitigating negative environmental and social impacts. This paper examines both procedural and substantive approaches to measuring effectiveness with a focus on the reasons that have been proposed to explain the lack of ESIA effectiveness.

5 One exception to this is the Swedish International Development Cooperation (SIDA) who have invested in the implementation of Strategic Environmental Assessments (SEAs) at national levels in developing countries. SEAs aim to integrate an analysis of environmental and social impacts into country plans and policies.

13). It may seem axiomatic to conclude that a political system is the most important factor in influencing how ESIA legislation is developed but it is one step towards recognising the influence of the political system over the potential effectiveness of ESIA.

The reason why the search for explanatory factors for the weakness of ESIA in developing countries has not delved deeply into the problem of political influence extends back to the founding theory of what ESIA represents. The broader literature on ESIA effectiveness (i.e. looking at both developing and developed countries) has been dominated by a rationalist approach: much writing on EIA is based (albeit usually implicitly) on an assumption that passive provision of accurate predictions on the environmental and social consequences of a range of alternatives, on its own, will lead to better (that is, more rational) decisions (Cashmore et al., 2004: 298). According to this view, the purpose of EIA is to provide decision-makers with scientific analyses on the probable environmental and social consequences; the way decision-makers interpret and use this information is outside the ESIA remit. Alternative theories about how decisions are made in practice, and what this means for ESIA, began to infiltrate ESIA literature only in the early 2000s (Cashmore et al., 2004). Since then, there has been more critical analysis of the influence of politics and power on ESIA, but this is used to critique and deconstruct our understanding of EIA effectiveness rather than to propose approaches to improve effectiveness (Cashmore et al., 2010). The analysis of the potential for political factors to undermine processes have been central to discussion on Strategic Environmental Assessments (SEA), assessments which examine the environmental and social impacts of country plans and policies at a national level (e.g. see World Bank 2011)

Even though there is increased recognition of the political nature of the decisions ESIA are trying to influence, the current solutions being proposed to improve effectiveness are somewhat blinkered by the way we understand the relationship between ESIA and politics.

3. The problems with current solutions to improving ESIA

3.1 Assumption that ESIA should mimic legislation and institutions introduced in Europe and North America

'Isomorphic mimicry' (Andrews 2009) has been a buzzword in international development for the past couple of years. Referring to the process in nature by means of which one organism mimics another to gain an evolutionary advantage, it is used in international development to describe the process of establishing institutions in developing countries that look like institutions in Western democracies in form, but nothing

like them in function. The development of ESIA legislation and administrative structures is a classic example of isomorphic mimicry. The result? ESIA legislation and administrative structures that look impressive while weak implementation of regulation continues.

By seeing the development of institutions and legislation that mimic what has worked in Europe and North America as the solution to the problem of weak ESIA in developing countries, we are potentially blinkering ourselves to more innovative and effective solutions. Although many developing countries feature democratic regimes and political structures that seem to be similar to European and North American political structures, fundamental political dynamics in developing countries do not mimic the latter's political dynamics. As ESIA was developed to work with political dynamics within the federal system in the US, replicating this model in countries with different political dynamics may be a fundamental reason for the disappointing results.

Designing ESIA to fit the political context is not a new idea. Appiah-Opoku (2001) recommended modifying ESIA to fit the political context in Ghana; Radaelli and Meuwese (2010) concluded that donor support to ESIA should not focus on copying ESIA structures or institutions, but on creating the conditions for their mechanisms to operate. Cashmore et al. (2004), in their wide-ranging discussion of the meaning of 'effective EIA', emphasise the need for EIA to evolve to interact and interface more effectively with decision-making processes. By this they mean more attention to the nature and form of decision processes; the needs and requirements of decision-makers, in terms of input timings and types; and the broader institutional, political and sociocultural context in which decision-making occurs. While these observations have been around for over a decade, there has yet to be an initiative to develop ESIA to fit the local political context.

3.2 An over-focus on formal institutions

As much of the analysis of why ESIA is weak in developing countries has focused on the presence, or lack of, legislation and administrative structures that mimic those found in Europe or North America, the corresponding focus of analysis has been on formal rules and deviations from these as the cause of weak impact. Developments in thinking about why decision-makers, individually and in groups, do not always follow formal rules have not been used to inform analyses of why ESIA has limited impact in many countries. Over the past 50 years, propelled by developments in New Institutional Economics, there has been increasing recognition of the influence of informal rules and norms on how formal rules are implemented and ultimately on how organisations function. In the literature on ESIA effectiveness, however, there is little discussion of how informal rules influence the implementation of ESIA. Kolhoff et al. (2009)'s analysis of ESIA effectiveness in developing countries understands ESIA as both the formal

regulatory framework and the informal rules applied in practice but this idea has not been expanded on in the literature. In the literature on SEAs, more attention has been paid to the role of informal rules. Hansen et al. (2013), which identifies informal communication channels as a key mode of influence in a Strategic Environmental Assessment, how informal rules specifically interact with ESIA procedures remains poorly researched. Work commissioned by the World Bank started to consider the role of informal rules in SEA (see World Bank 2011) but this has not been extended to ESIA. Finally, there has been no attempt to analyse how ESIA may need to be adjusted in light of informal rules governing powerful actors' decisions.

3.3 Public participation as the panacea to all problems

Improved public participation is a popular recommendation as a way to improve the effectiveness of ESIA. Of the 13 studies on ESIA effectiveness in developing countries reviewed for this paper, nine recommended improved public participation.⁶ Public participation and improved dialogue is also recommended as a way of managing political interference; in an extensive analysis of the influence of political actors and institutions on ESIA processes, the principle recommendation for managing political influence was to promote a set of design principles or criteria that assist in making ESIA more conducive to dialogue on sustainable development (Arbelaez-Ruiz et al., 2013). This approach may be effective where there are pockets of political will across different agencies that interact with ESIA, but many of the case studies examining instances of weak implementation of ESIA describe low political will as an overarching problem (e.g. Clausen et al., 2011; Marara et al., 2011).

Furthermore, as Meuleman (2015) highlights, governance styles may not be compatible with extensive public participation and the accompanying complexities that arise from taking public participation seriously. Meuleman uses three categories of governance style – hierarchical, market-driven and network-oriented – to explore how governance interacts with ESIA and vice versa. For example, a hierarchical governance system has much strength to implement EIA regulation, but may at the same time lack the ability to deal with transparency, consultation and participation.

In theory, public participation should offer stakeholders, including the directly impacted community or communities, an opportunity to influence key decisions around the project. In reality, power structures can work to suppress the influence of directly impacted communities. Furthermore, the literature on the cost of collective action for poor people suggests poor people are likely to sacrifice

their opportunity to participate in public consultation for income-earning opportunities (Booth, 2011). Indeed, some researchers have noted that public participation may actually reify existing power relations rather than challenging them (Devlin and Yap, 2008). It is clear that, if the fundamental political dynamics in a given context contradicts what is being attempted through public participation, those political dynamics are likely to trump the beneficial effect of public participation.

4. How working with the political economy environment can increase the effectiveness of ESIA

Political economy research has produced a large body of research on how underlying power relations influence how both formal and informal institutions function and thus why pro-development initiatives which are overly focused on technical form tend to fail. A key area of innovation within political economy research is political settlement theory. A mix of academics (Sam Hickey, Mushtaq Khan, Brian Levy) and researchers working on international development (David Booth, Tim Kelsall) have taken some of the insights from political economy research and used these to typify deep power relations with the intention to identify ways of working within those power relations. There are various definitions of political settlements which emphasize different combinations of who is involved in a settlement and how the bargain is formed but at the heart of political settlement theory is the idea that a society's institutional structure and the policies that flow from it reflect the interests of powerful groups in society.

In a recent paper, Kelsall et al. (2016) use insights into fundamental political dynamics to examine how health care policy can be adapted to a particular political settlement. They propose using political settlement theory to link different political settlement 'types' to differences in political will and state capability – two contextual factors evaluations of ESIA in developing countries often allude to as being lacking. While a number of studies have addressed state capacity, political will has remained a black box that has not been addressed in the ESIA literature.

According to Kelsall (2016), the nature of the political settlement will affect the state's will and implementation capacity. Kelsall draws on Levy's (2012) typology of political settlement types in developing countries, which characterises ruling factions as either dominant or competitive. In dominant political settlements, the leader or leadership group has a great deal of discretion over the performance of the bureaucracy. There may be formal structures – that is, elections – that make it look like there are opportunities for political groups to compete

⁶ The papers include Ahammed and Harvey (2004); Ahmad and Wood (2002); Ali (2007); Alemagi et al. (2007); Appiah-Opoku (2001); Glasson and Salvador (2000); Kahangirwe (2011); Kolhoff et al., (2009, 2016); Ogunba (2004); Toro et al. (2010); van Loon et al. (2010).

for power, but the dominant leader or leadership group works to disable these structures through control of the media, suppression of opposition, etc. This means that, where the leadership is inclined for one reason or another towards political and economic predation, public sector performance is likely to be poor.

Where dominant political leaders with strong developmental objectives emerge, the potential for strong bureaucratic performance may be high (Levy, 2012, 2014). In competitive settings, the formal structures that allow political groups to compete for power work, and there are regular transfers of power between groups through elections. In these settings, democracy may look as though it is functioning better, but the competitive nature of cyclical elections creates its own set of challenges. In particular, performance of the public bureaucracy is likely to be more problematic. Political time horizons are short (on average four to five years), so there is little incentive for political leaders to invest in the long-term task of building bureaucratic capability. Moreover, with no one faction having a clear monopoly of power, decision-making is constantly contested; narrow interest-seeking and even individual corruption are often ubiquitous and political incentives to supply public goods are limited (ibid.).

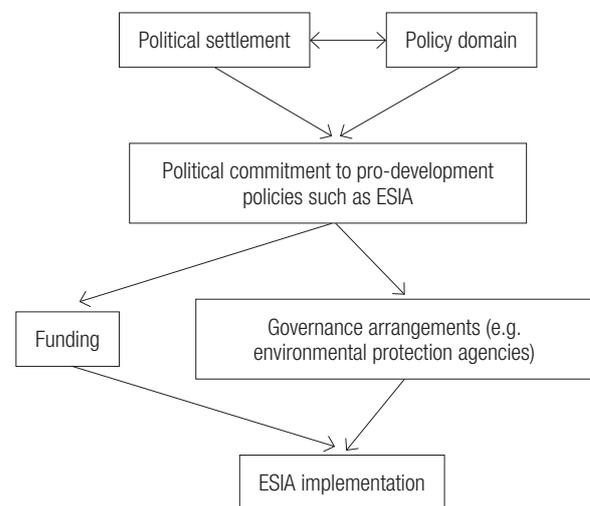
Similar to Meuleman (2015)'s work on the interaction between governance styles and ESIA, Kelsall (2016) outlines how different political settlements influence the implementation of a pro-development policy such as universal health care. In political settlement theory, it is proposed that deep power relations shape how institutions, both formal and informal, actually function in practice. Thus political settlements influence whether a government is likely to display hierarchical, market-based and network-based governance styles, as defined by Meuleman. Dominant political settlements are more likely to feature a preference for hierarchical governance styles, whereas competitive political settlements are more likely to include space for network-based governance styles. However, competitive political settlements, particularly clientelist competitive settlements may feature policies and legislation that formally promote consensus-based decision-making, but political patronage means decisions are ultimately made in a hierarchical manner. While the governance styles Meuleman outlines provide no insight into political will, political settlement theory makes predictions about the degree of political will a regime will have towards pro-development policies.

Figure 1 summarises the presumed relationship between political settlements, political will and ESIA implementation. In this causal chain, political settlement is hypothesised to be the underlying balance of power on which the political order is based. The policy domain is the realm of ideas, interest groups and coalitions concerned specifically with environmental protection and the social impacts of extractives. These two variables interact to create a certain level of political commitment to ESIA

regulation, which in turn influences the level of funding and resources allocated to ESIA. In ESIA, the governance arrangements are, for the most part, predetermined by ideas of best practice developed in North American and European countries. There are, however, variations between countries in terms of where the environmental protection agency is located, which influences the power the agency has to influence decisions on projects. The political settlement and policy domain will influence where agency is located and the power that can be wielded by particular actors.

In the ESIA literature, little attention has been paid to the types of governance arrangements that might be possible in implementing ESIA and how these may be designed in view of the political settlement and policy domain. The reason why it's likely to be more strategic to adjust regulations to suit the political settlement rather than trying to influence the political settlement is that political settlements are unlikely to change quickly unless subjected to an external shock (Booth 2016). It may be possible for donors to influence interest groups and coalitions concerned with environmental protection and the social impacts of extractives, who in turn may be able to influence the political settlement but this is slow, long-term work which is likely to have unpredictable consequences.

Figure 1: Conceptualisation of the relationship between political settlements, political will and ESIA implementation



As mentioned earlier, Kelsall et al. (2016) have used political settlement theory as an interpretive framework to generate analytical narratives about why some countries succeed in implementing pro-development policies while others struggle, even though on the surface they have appropriate governance arrangements in place to facilitate implementation. To introduce how this might contribute to thinking on the implementation of ESIA, we follow Kelsall et al.'s lead and present their four types of political

settlements as discussed earlier: dominant-developmental, dominant-predatory, elitist competitive clientelist and inclusive competitive clientelist.

In dominant-developmental settlements, the government is likely to be strongly committed to ESIA (once it has accepted the need for it) and to have some funding capabilities and effective governance arrangements. It should be able to 'own' ESIA and take the lead in designing and implementing them. That does not mean it will have enough expertise or funds to do everything it wants, or that it will get things right all of the time. An example could be Rwanda, with high levels of political will in support of ESIA and good governance arrangements alongside low levels of public participation (Marara et al., 2011). The best-fit strategy to support the improvement of ESIA in this context is likely to be government-supporting: providing technical support and funding for what will be a predominantly state-centred pathway. The key challenge in implementing effective ESIA in a country with a dominant-development political settlement will be ensuring meaningful public participation takes place. As political will is high, there may be opportunities to justify extensive stakeholder engagement on the basis that consultation and management of community relations will decrease the probability of conflict.

In dominant-predatory and elitist competitive clientelist contexts, the government is likely to have weak commitment to ESIA and little desire to effectively fund or govern it. State structures will be highly dysfunctional. The best-fit strategy to support ESIA in this context, according to Kelsall et al.'s interpretative framework, will be government-substituting. This approach raises some questions about recipient ownership and the long term consequences of lack of ownership. Indeed, in these types of political settlements, particularly in aid-dependent countries, transnational actors often play a greater role than parts of the national government in developing and introducing legislation. However, in this context, political settlement theory indicates that commitment to environmental and social safeguards is unlikely to become institutionalised; rather, it is more likely that donor-supported initiatives to improve the implementation of ESIA will remain 'project-based' (Lavers and Hickey, 2015). In this situation, Kelsall et al. recommend support focused on building 'islands of effectiveness' in the administration, i.e. supporting sections of an administration that can accomplish the absolute essentials required of ESIA, while creating incentives for proponents to take ownership of the ESIA process. Creating incentives for companies with financing from international institutions is relatively straightforward as they should already be applying International Finance Corporation (IFC) performance standards. For companies not financed by international finance institutions, the issue of incentives for implementing ESIA will require more creative solutions.

In inclusive competitive clientelist contexts (e.g. Ghana), the state may have a strong ostensible commitment to ESIA and some financial capability (fluctuating, probably, with the electoral cycle), but policy design and adoption is likely to be diluted or undermined by vigorous interest group politics, and implementation is in constant danger of being undermined by weak or chaotic governance and patronage pressures. Parts of the state may work well where committed leaders, managers and service providers have been able to insulate themselves from or find a way of working with the politics around them, but many parts will work poorly. At the same time, the more pluralistic political context is likely to imply a more diverse range of civil society organisations that can participate in stakeholder consultations, but that ultimately may have limited influence over the outcomes (a common complaint about ESIA). To support more effective ESIA in this context, Kelsall et al. recommend a strategy focused on 'government-connecting'. What they mean by this is a more politically savvy role, through work to connect the more effective parts of the state and polity with the more effective elements of the market (i.e. companies that in principle support ESIA) and civil society, supporting multi-stakeholder initiatives that can disempower patronage politics. This essentially describes the approach that the Centre for Responsible Mining developed in response to its analysis of the influence of political institutions in Peru (Arbelaez-Ruiz et al., 2013). This approach is likely to produce results in countries with an inclusive competitive clientelist political settlement, but unlikely to produce results in other types of political settlements.

Table 1 summarises predicted ESIA progress based on political settlement theory and an assumption that the 'good fit' policy strategies are implemented.

Kelsall et al.'s interpretative framework outlines two controversial predictions. First, the prognosis for effective ESIA implementation in these four types of political settlements is pretty poor, except in the case of the dominant-developmental regimes. As competitive clientelist and dominant predatory are much more common than dominant-development, this interpretative framework predicts that, in most countries, implementation of ESIA is likely to be weak to moderate. Considering much of development banks' funding depends on ESIA to ensure the significant negative environmental and social impacts are mitigated, this prediction is unsettling.

Second, the framework indicates that ESIA is likely to be most effectively implemented in dominant-development regimes. This contradicts much of the thinking in the ESIA literature, which assumes that the more democratic a country is, the more likely that ESIA will be effective. There is some evidence to support this position: environmental authorities and non-governmental organisations have been found to be more autonomous in democracies (Kolhoff et al., 2009). More research needs to be done to understand

whether the predictions made using Kelsall et al.'s framework are correct or whether democratic institutions are indeed necessary for effective ESIA. Kelsall et al.'s typology is particularly useful, in part, precisely because it does not build in a bias for democratic regimes. There are different typologies of political settlements, some of which have a built-in bias towards 'inclusive political settlements', which tend to manifest features that reflect liberal democracy (e.g. Barma et al., 2012). The useful feature of Kelsall et al.'s typology is that states are categorised according to the degree to which the ruling faction dominates or competes with other factions for control of power. This allows for recognition of political settlements that feature democratic institutions, but in which those

institutions work in complex, and often dysfunctional, ways owing to the competitive nature of power relations.

A drawback of Kelsall et al.'s typology is that it is limited to countries in the so-called 'early stages of development'. It does not include the kinds of political settlements we observe in Europe and North America, where ESIA ineffectiveness arises not so much from the processes being captured by patronage, but from the differences in power relations between the different stakeholders (Cashmore et al., 2010). Furthermore, it classifies a country's political will as constant, whereas in reality there may be variations in political will between national, regional and local levels.

Table 1: Predicted ESIA progress based on political settlement analysis

Political settlement type	Political commitment to ESIA	Funding	Governance	Good fit policy strategies	ESIA progress
Dominant (developmental)	Strong, if aligned with the ideas and interests of the dominant group	Adequate, though can be improved with donor supplements	Moderate to highly effective	Government-supporting	Strong, provided administrative arrangements are enabling
Dominant (predatory)	Weak, although may be adopted for appearance's sake	Highly inadequate, so will need to be donor-dominated	Ineffective	Government-substituting	Weak to moderate
Elitist competitive clientelist	Weak, and often only adopted for appearance's sake	Highly inadequate, so will need to be donor-dominated	Ineffective to moderately effective, possibly only for short lengths of time when supported by donor initiatives	Government-substituting	Weak to moderate
Inclusive competitive clientelist	Pressures for adoption of ESIA, but more pluralistic polity means commitment may waver, or provision to be captured by patronage	Fluctuating, so may need to be donor-supplemented	Ineffective to moderately effective	Government-connecting	Moderate; although all legislation and administrative arrangements are in place, and stakeholder engagement occurs, the ESIA process is likely to succumb to clientelist politics

5. Conclusion

The potential for ESIA to support the governance of extractives at the local level has not been recognised by donors. Currently ESIA regulation is mainly understood by development banks as a set of procedures that recipient countries need to go through to secure access to funding. Even in the limited way that development banks are using ESIA, it should be of concern that assessments of ESIA in developing countries has found it to be relatively ineffective.

Considering the potential for ESIA to support the governance of extractives at the local level, there is a strong argument for additional investment in supporting the implementation of ESIA. Unfortunately, the analysis of the reasons for ineffective implementation of ESIA in developing countries has been somewhat limited by a focus on form – i.e. whether the appropriate legislative and administrative structures are in place to facilitate the implementation of ESIA. Insights from political economy research on the limits of transferring legislation and administrative structure to different political contexts, on the influence formal and informal institutions and the limits of public participation have not informed debate about why ESIA has been less effective in developing countries.

Political settlement theory, which builds on insights from political economy research, is a useful starting point for thinking about whether ESIA is likely to be

implemented effectively in a given country, and how best to support that process. The theory can contribute to our understanding of how a particular political settlement might influence the implementation of ESIA. The typology outlined in this paper is intended to predict whether a particular political settlement will result in weak, moderate or strong implementation of a given policy, and the required interventions to ensure effective implementation. More research needs to be done to establish whether these predictions hold for the implementation of ESIA in practice. Initial research by Kelsall et al. (2016) indicates that the predictions broadly hold in relation to the implementation of universal health care, although there were also some unexpected findings, which need to be explored in more detail.

Political settlement theory does not provide all the answers to questions about how to improve the effectiveness of ESIA. There is still much that is unknown about the structures and informal processes that allow politics to undermine the goals of ESIA procedures at different stages, and how this happens in different political contexts. This research is crucial for informing thinking about how to design ESIA so there is greater possibility of managing political influence given a particular political context. Political settlement theory provides a framework within which to think in a more structured way about this phenomenon.

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