Early Results
of Open Government
Partnership Initiatives

2ND EDITION, 2018

Open
Government
Partnership

INTRODUCTION

Starting in 2016, OGP began a publication series to capture 'early results' of open government commitments. What are 'early results'? In the governance world, it can take a long time to see how open government policies materialize into concrete social, economic and political benefits for citizens. But as we have learned from seven years of OGP, the journeys of reformers fighting to bring policies to fruition are eye-opening experiences which are critical to understanding the ultimate impact that policies had or did not have. The first edition of early results is here. This is the second edition.

In measurement terms, these cases are intermediate outcomes of open government commitments. They were selected from 2013-14 OGP action plans, particularly those judged by the Independent Reporting Mechanism (IRM) to have either a star (potentially transformative and complete) or a major or outstanding 'did it open government' assessment. In other words, the open government commitments showcased here had shown substantial progress in making government more open, participatory or responsive by the end of two years of implementation.

The stories here put a spotlight on the agents of change and the real political battles they have been fighting on the ground – often taking two steps forward, one step back. In incremental and powerful ways the status quo is changing in each of these countries.

Philippines' mining industry, which has had a reputation for corruption, displacement of communities and violence towards environmental activists, is slowly transforming itself. A movement begun by those inside government, the mining industry and activists are bearing fruit. **Reporting on revenues** is up to 89 percent of mineral production in the country, a tool to **monitor royalty payments** due to indigenous communities has been introduced, and the **transfer of revenues** from the national to the local level is much faster than before. Civic activists, mining companies and the government are gradually developing a relationship previously scarred by distrust and violence. The rights of indigenous peoples especially land titling and royalty payments are being respected.

Paraguay's government created 200+ municipal councils, four times the amount originally planned. The significance? The councils bring together local authorities from different sectors with neighborhood groups and local businesses. They serve as consensus bodies, convening public hearings, monitoring projects, and creating **participatory development plans** that outline what resources the municipality has and how the community believes they should be used. Councilwoman Mirian Salinas pointed out, "People liked the approach to civic participation - many people got

up and thanked us because it was **the first time that this opportunity was given** and that motivated them to work on this initiative because if people have the chance to participate they do so...it's a matter of giving it ago."

The United Kingdoms government took a collaborative approach to **building the beneficial ownership registry**, holding consultations with civil society and business, while using the **wisdom of the crowd** to spot errors in the registry and drive improvements. Activists and journalists have uncovered **widespread malfeasance**, exposing scores of senior politicians, seventy-six people on the U.S. sanctions list, and hundreds of others who are barred from owning UK companies. **Following the UK's example**, fifteen countries have made beneficial ownership transparency an OGP commitment. In mid-2018, the UK parliament voted to introduce public registers for British Overseas Territories — home to some of the world's most notorious tax havens.

In the **United States**, widespread distrust of police — particularly among communities of color — has been exacerbated by reports of racial discrimination and police violence. As part of the **Open Police Data Initiative** created by President Obama in 2014, 137 law enforcement agencies, including those in major cities such as New York City, San Francisco, and Detroit, released more than two hundred datasets that included information on stops, citations, arrests, use of force, workforce demographics, police shootings, and homicides. The availability of better data has **helped to change police tactics in several jurisdictions**. For example, an analysis by The New York Times showed that officers in North Carolina were more likely to stop black drivers for no attributable reason, with many of these incidents resulting in the use of force. Negative coverage led police chiefs to order their officers to stop the practice of profiling and focus on actual traffic violations, **decreasing racial disparity in traffic stops**.

From tackling high level corruption in the United Kingdom and Philippines to empowering people of color and marginalized communities in the United States and Paraguay, reformers are using open government approaches to solve problems. As we are seeing in the first and the second edition of this publication, a key driver of progress is a coalition of actors within and outside of government who have come together to push through ambitious and in many cases politically sensitive reforms. This is emblematic of the OGP model – activating bottom up pressure and top down mandate and willpower to create a powerful movement who learn to work together to solve problems in an open, participatory spirit. ■

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Philippines
Introducing Transparency and Accountability to the Extractives Industry

Kathryn Pauso
Researcher, Bantay Kita

Tina Pimethal,
National Coordinator. Bantay Kita

The mining curse

A HIGHLY CHALLENGING LANDSCAPE

On 24 January 2011, Dr. Gerry Ortega, an outspoken radio broadcaster and environmentalist, was shot and killed in a public market in Puerto Princesa, Palawan[1]. This was not the first time a popular radio broadcaster was killed in Palawan. Fernando Batul was similarly executed in 2006[2]. In both cases, two unidentified men riding a motorcycle shot them in the head. However, Dr. Ortega's death became a unifying issue for residents of Palawan, mobilizing them to take a stand on crime and malpractice in the Philippines' mining industry.

Mining has been a highly contentious and divisive issue for decades in the Philippines. In the past 20 years alone, there have been five major disasters in the Philippines caused by mining operations. Massive spills of mining waste have caused flash floods and contaminated rivers, killing off fisheries and creating public health emergencies. Additionally, shoddy construction of mine sites and poor working conditions have resulted in numerous deaths. Relating to environmental justice, there have been a large number of killings in the Philippines connected to the extractives sector, with numerous journalists being targeted. The Philippines is considered the second most dangerous place in the world for environmental activists (41 deaths in 2017)[3].

Gerthie Mayo-Anda, a prominent environmental lawyer and Executive Director of the Environmental Legal Action Center in Palawan, recounted her meeting with Ortega prior to the event in

an interview. "I remember that I was with Doc Gerry the day before he was shot. We were at a hotel for a conference. At the time, the issue was related to the misuse of the profits from the Malampaya fund (oil drilling in Palawan). He was lambasting then-Governor of Palawan, Joey Reyes, every day[4]."

Ortega was highly outspoken against the mining industry in Palawan, primarily the three major mining firms operating there—Nickel Asia, Citinickel, and Berong Nickel. While it was still too early then to say who was responsible, it was enough to unite the sentiment of different civil society groups under the Save Palawan Movement. Two weeks after its formation, Save Palawan Movement launched their "No To Mining in Palawan" campaign[5]. While local protests and mobilization against mining have been common in the past decades, the Save Palawan Movement developed into a national movement within a year, and by December 2011, there were 3.5 million signatures supporting their anti-mining campaign.

The Philippines has significant nickel, copper, and gold reserves. Since 2012, the country has been one of the top nickel producers in the world. The Fraser Institute is a Canadian think tank and research institute that regularly publishes different global economic indices. Their Annual Survey of Mining Companies, measuring the overall investment attractiveness of countries, has two components: the favorability of government policy and the pure mineral potential of a country. Out of 112 countries surveyed, the Philippines has consistently placed in the bottom half in terms of overall investment attractiveness from 2012 to 2016. This result is certainly not due to lack of mineral reserves in the country. In fact, in 2013 and 2016, the Philippines ranked in the top 10 in terms of mineral potential out of 112 countries[6].

The combination of a weak regulatory environment, collusion between the industry and local politicians, and the violence mining operations tend to aggravate within communities accounts for much destruction over the years. It is an industry that has created fortunes for some of the richest families in the country, while leaving towns and communities barren and destroyed.

Unfortunately, the killings of environmentalists, activists, and journalists continues unabated, and a lot of these crimes have remained unsolved. It has been a tortuous seven years for the widow of Dr. Ortega, with accused former governor Joel Reyes and

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his brother, former Mayor of Coron Mario Reyes, fleeing the country, being arrested abroad and repatriated, ultimately to be set free by the Court of Appeals[7]. This kind of evasion of justice paints a picture of the uphill struggle victims face in seeking redress for the various crimes committed by those profiting from extraction and exploitation of a country's natural resources. However, initiatives like Extractive Industries Transparency Initiative (EITI) have created the space for dialogue and necessary reform.

REGULATING EXTRACTIVES: THE BEGINNING

In June 2010, Benigno Aquino III was inaugurated as the 15th President of the Philippines. He ran on an anti-corruption platform during the campaign, introducing several reforms to promote transparency in government, while targeting the different corruption scandals that plagued his predecessor. It was at this time that the Philippines was invited as one of the eight founding members of Open Government Partnership (OGP) when it launched in September 2011. Being a multilateral initiative that promotes principles of transparency, citizen empowerment, and anti-corruption, OGP was a good fit with the goals and agenda of the Aquino administration.

It was during the same time that the events that transpired in

> # "It is well understood and communicated behind closed doors that regulatory authorities are exceptionally corrupt and expect large sums of fees to advance and approve permits."
>
> **Industry respondent in Fraser Institute Survey**

Palawan in 2011 began to unfold and gain national momentum. "I learned [about the Extractives Industries Transparency Initiative] in one of the OGP Assembly Meetings. I sat down in one of the sessions involving the extractives industry and I was quite impressed with the transparency initiatives that some countries had been able to undertake. When I got back here, in fact, I even invited EITI Indonesia to come over. I told the President, 'This will force them to be transparent.'" recounted Former Secretary of the Department of Budget and Management, Florencio Abad. This set into motion a series of events that led to the country's candidacy in the EITI.

On 6 July 2012, President Aquino signed Executive Order No. 79 (EO 79), issuing a moratorium on the granting of new mining permits in the country. It also formally created the Philippine EITI (PH-EITI). Additionally, the 'initiation of transparency and accountability in the extractives sector' was included as one of the Philippines commitments in the 2013 OGP Action Plan. Former Secretary Abad recalls, "I wanted it to be something that can be considered as the government's commitment to the OGP and eventually, institutionalized. We can do mining in a better way. I saw the opportunity because I don't think that you can get mining to stop, especially those who are already there. Maybe you can prevent new players or new tenements or new mines from being opened, but you still have to deal with the existing mining operations. This is an opportunity for us to introduce reforms."

"The reason why we were interested [in OGP] was, number one, we had serious problems with our credibility abroad. This was not good for creating a climate where you can attract investments. It was high time that we open up to the world and we tell the world what we are going to do to change that image. We are going to undertake an aggressive campaign to promote transparency and accountability; and later, the involvement of the citizens." This was former Secretary Abad's response when asked why the country joined the OGP in 2011[8].

CHANGING ATTITUDES

Attorney Gerthie Mayo-Anda has been at the frontline of the struggle against mining malpractice in Palawan for over two decades now. She has been on the opposing side with mining companies like Nickel Asia on several cases dating back to 2002. In fact, she has been such a formidable opponent for mining companies that the Presidents of Nickel Asia and the Legal and Policy of the Chamber of Mines of the Philippines (COMP) 'declared us persona non grata in 2011.'

According to Attorney, Mayo-Anda, initially only the Palawan Non-Governmental Organization (NGO) Network and other local environmental groups were active in the anti-mining campaign. They had the support of some local leaders, notably Puerto Princesa Mayor Hagedorn, and international environmental organizations like World Wildlife Foundation. It was only after the death of Doc Gerry that the powerful church group, Philippine Misereor Partnership, joined their cause. They also gained the vocal
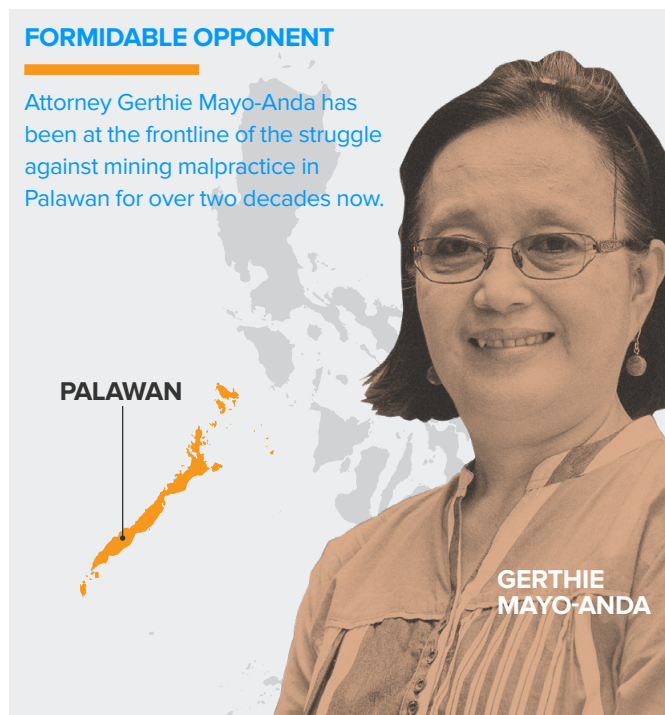
support of Gina Lopez, who was back then at an early stage of her environmental advocacy efforts. Being a part of the prominent Lopez family, Gina Lopez brought on considerable media attention to the issue until it captured national interest. By then, other local movements joined the Save Palawan Movement in their call to stop mining in their communities.

"Yes, [Dr. Ortega's murder] was pinned on us [the mining industry]. It was so frustrating," said Attorney Ronald Recidoro, Vice President of COMP, when asked about Dr. Ortega's murder. The Chamber of Mines of the Philippines (COMP) is the lobby group for large-scale metallic mining companies in the Philippines. The Chamber undertakes advocacy, communications, policy research, and networking activities on behalf of its membership. "Back then, I was new to the Chamber and they had a different mentality. The mentality was - For as long as I have a permit, I don't have to talk to anybody, I don't have to say anything, I just need to do my work. Nobody saw the need to communicate or to be transparent. That clearly did not work."[9]

In December 2011, a joint senate inquiry was conducted by the Senate Committee on Agriculture and Food, and the Committee on Environment, to review mining legislation in the country. Representatives from both civil society and industry were invited to speak. The Chamber of Mines of the Philippines argued that it was the small-scale mining operations that have not been following environmental standards in the country. It claimed that its members were engaged in responsible mining and had invested significant amounts for the reforestation and rehabilitation of mine sites. The Save Palawan Movement presented the environmental costs of these mining operations, including the loss of livelihoods for those impacted by the siltation and destruction of watersheds and marine

FORMIDABLE OPPONENT

Attorney Gerthie Mayo-Anda has been at the frontline of the struggle against mining malpractice in Palawan for over two decades now.

PALAWAN

GERTHIE MAYO-ANDA

life. The Chamber of Mines launched its own information campaign questioning the veracity of the data presented by Save Palawan Movement. It also highlighted the jobs they created and the taxes they had been paying as benefits for the community and the country.

This set the stage for subsequent forums and conferences between mining industry representatives and civil society groups. This back and forth engagement between civil society and big mining continued for months. It sadly climaxed in a notorious confrontation between the President of Philex Mines, Manny Pangilinan, and Gina Lopez during the 2 March 2012 Mining Forum. That forum ended up in a shouting match, with representatives accusing each other of lying and fabricating data. Given this colorful history, these actors are now being forced to work together through the EITI forum and (grudgingly) acknowledge each other's efforts.

A WELCOME COMMITMENT FROM THE MINING INDUSTRY

Attorney Ronald Recidoro, Vice President of COMP, recalls the reaction of its members on their initial decision to join the initiative. He said, "You should have heard that meeting. 'Why?! We're shooting ourselves in the foot! What if [the revenue payments] don't match? Whose fault would it be? Ours?' There was really a huge opposition to the idea but we said that we are putting our foot down and we need to do this."

Former Secretary Elisea "Bebet" Gozun took control of the PH-EITI process and said, 'We will not be arguing here. We will agree to disagree on certain points; but on the points where we agree, we have to move forward. What we seek here is transparency. We just want to see how much the private sector is paying, how much the government is receiving, then compare the two'. Timely, accurate, complete and verified data and reports regarding extractives are vital for policy reforms and evidence based decision making in natural resource management. When companies pay the correct amount of taxes, it implies that they are following appropriate policy requirements.

Former Secretary Abad notes, "She made a clear set of ground rules. For our part, I was comforted. If we will only talk about transparency alone, fine…That's where it started, just with revenues. Until eventually, when you get to trust the other party, alright, let's talk about this issue". "One of EITI's requirement is a government champion, right? It was only then that I realized why such a requirement existed. It's because when you are starting something like EITI, where nobody understands it and nobody trusts anybody, it needs a strong government champion to get everybody to sit at the table and behave," recounted Atty. Recidoro.

When asked about their motivations for joining, Atty. Recidoro mentioned, "Actually, as early as 2005, the Chamber was already aware of EITI. We went to Mining Indaba in South Africa and it was launched by [Former British Prime Minister] Tony Blair way back in 2005. We even did a pilot soon after, but it was not well-received

> ## "Compared to 1993, when I first visited the area, the firm's link with the community has improved."
>
> **Attorney Mayo-Anda**

because it wasn't structured. There were no standards. Back then, what we did was we piloted in three municipalities. We asked the Local Government Units (LGUs) to report what it got and the mining company to report what it paid. That's it. It was very basic, but even in those pilot stages, the LGU didn't want to cooperate. The mining company was like, 'Why do I need to show you my numbers. I'm reporting this to BIR [Bureau of Internal Revenue] anyway. Get it from BIR.' There was a lot of hesitation, there was no trust, and there was no CSO component."

PHILIPPINES: A LEADER IN NATURAL RESOURCE TRANSPARENCY

The government, civil society, and industry primarily have to commit to complying with the disclosure standards. This is why every member country of the EITI produces an annual reconciliation report. It began as a way to reconcile data between what the government declares to have received in taxes and what the industry claims to have paid in taxes and royalties.

The driving force of the EITI in every country is the Multi-Stakeholder Group (MSG). For the Philippines, there are five representatives each from the government, industry, and civil society, who meet regularly every month. The Philippine EITI is housed under the Department of Finance and the PH-EITI Secretariat provides technical support to the MSG. The MSG drafts a country action plan every year, and sets the direction and defines the priorities for the initiative. Each member of the MSG can introduce new agenda items, and each sector submits inputs to the action plan. The MSG also reviews activities and identifies those that may be combined (related, same audience) or scheduled in a more efficient manner (dovetailed with other activities to save on time, cost, resources, etc). There have also been times when government and CSO's share resources and collaborate on activities.

In October 2017, the EITI Global Conference was held in Manila. During that time, the Philippines was recognized as the first country to meet the latest 2016 EITI standards. All its efforts to provide information on licensing and contracts, production data, and revenue collection and allocation were deemed satisfactory. It was

the first country that was rated Satisfactory or better in all the EITI requirements.

All parties involved in PH-EITI have been equally invested in its success. So, being granted the EITI Compliant Status has been a good climax to a five-year journey for a lot of these people who have been there from the beginning. Their efforts have been recognized by the Global EITI and PH-EITI has been given the International Chair Award twice already.

CHANGES IN INDUSTRY

COMP has 26 regular members who are currently engaged in the extraction, processing, or smelting of minerals[10]. Of those 26 corporations, 16 have commercial operations with reported production and sales. 14 of the 16 members have now participated in the latest PH-EITI report. There were 58 targeted companies from the extractives sector and 46 of those companies were able to submit their reports on time. In terms of reported government revenues, these participating companies accounted for 92% of the taxes paid.

The newly-appointed COMP President, Gerard "Gerry" Brimo, has been an active participant of PH-EITI from the start. He is also the President of Nickel Asia, the biggest nickel mining firm in the country. The successes in PH-EITI has given COMP the momentum to pursue more changes and to evaluate themselves against a global standard.

"The EITI compliance has been the sole bright spot for us in 2017", says Recidoro, "[COMP member] companies would now say that we're the first country to be compliant with the new EITI standard. Everyone is proud. We were just glad that we were there from the start, we didn't just ride along. You can see a lot of the [COMP members] taking pride in it. [The PH-EITI] is not just a financial investment for us. We were emotionally invested with it as well," He credited the initiative for building trust with the civil society representatives. Over time, their members were more at ease about sharing more information publicly.

In fact, the PH-EITI experience has been that positive for COMP that they are now signed up for Toward Sustainable Mining (TSM) initiative in late 2017. TSM initiative was initially developed by the Mining Association of Canada as a way for their members to measure themselves in five thematic areas: environment, biodiversity, indigenous peoples' relations, tailings, and dam management, and greenhouse gases. "We'll see in three years [after TSM implementation]. If [members] haven't started, we'll have to kick you out. It's not business as usual. If we go down to just five members, so be it. According to [our President] Gerry Brimo, he wants a Chamber that's above board."

CHANGES IN CIVIL SOCIETY AND COMMUNITIES

Attorney Mayo-Anda noted that there have been improvements in community projects funded by Nickel Asia. Bataraza is one of the towns in Palawan that are impacted by the Rio Tuba Project Site of Nickel Asia. According to her, "Compared to 1993, when I first visited the area, the firm's link with the community has improved. They have a lot of projects and they have even been using their Social Development and Management Programs fund accordingly. When we visited last 7 December 2016 with Secretary Gina Lopez, I saw the 38 hectares of restored forest land."

For a lot of other advocates like Mayo-Anda, it was only recently that they were even allowed to enter the grounds of the mine site. "I was finally able to visit the mine site. I was eating with the Vice President of Rio Tuba [mining site] on the table." She even went so far as to acknowledge the efforts of Mr. Gerry Brimo, President of Nickel Asia. "I think even Gerry Brimo has changed since then. He has now improved when talking to me. I can see the shift in attitude. I think he also sees that they are already in PH-EITI and they see that their performance is being graded, relative to the other mining."

One of the biggest reform areas for PH-EITI pertains to the issues surrounding royalty payments of mining firms operating in ancestral domains of indigenous peoples. A lot of them are nomadic tribes

MINING IN THE PHILIPINNES INFOGRAPHIC

41 deaths in 2017

The Philippines is considered the second most dangerous place in the world for environmental activists including Dr. Gerry Ortega (right)
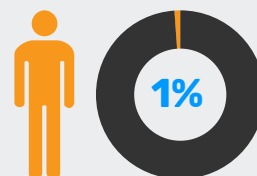

DR GERRY ORTEGA

5 major disasters

In the past 20 years alone, there have been five major disasters in the Philippines caused by mining operations.

1% of gross

Mining companies are mandated by law to pay at least 1% of their gross sales to these indigenous tribes as royalty payments.

1%

that have evaded colonial and urbanizing influences for centuries by living off the mountains and face a number of challenges. Firstly, using mainstream financial instruments such as contracts, corporate accounts, and financial management systems is not easy for them. Second, land titling has not been a common practice for them; there have been a lot of complaints of land grabbing within those domains, and it has led to displacements and exposure to violence for these tribal members. Third, they have been vulnerable to being defrauded by unscrupulous individuals—given that they do not have access to formal institutions for banking, credit, and investment. The royalties they receive are preyed upon by these individuals. Fourth, the well-meaning Indigenous Peoples' (IP) Rights Act requires that any entity that will operate in the ancestral domains have to secure the free, prior, and informed consent of these tribes. One of the negative externalities of this law is that it turned tribal leaders who oppose certain projects into targets for execution.

Mining companies are mandated by law to pay at least 1% of their gross sales to these indigenous tribes as royalty payments. Historically, this arrangement has not gone well for these groups. The IP Tribal Councils are responsible for reporting royalty proceeds received and expenditures made against it for the community. This assumes that the Council has a bank account solely for the purpose of royalty transactions, and that the Council has a financial management system and project monitoring and reporting in place, among others. The National Commission on Indigenous Peoples' (NCIP) is supposed to monitor this as well to ensure that that royalties be spent on socio-economic development. The main document for monitoring projects and expenditures should be the Community Royalty Development Plan which is mandated by the NCIP. As expected, in the four years of PH-EITI reporting, the biggest change has been regarding awareness of the royalties owed to these tribes.
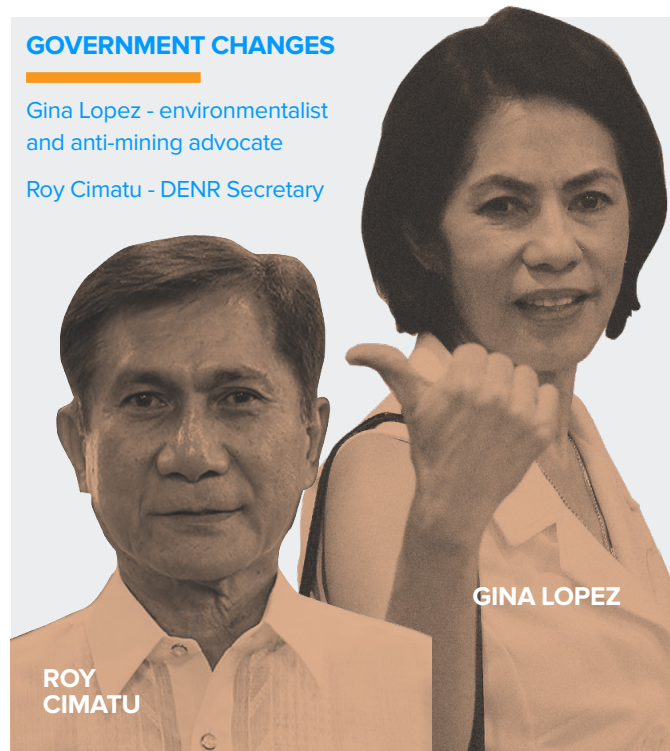
Victor Colili, a tribal leader in Palawan and a member of the MSG, narrated one ongoing development in the province. "The indigenous people in Bataraza [a municipality in Palawan] are now submitting a petition addressed to the Cabinet Secretary Leoncio Evasco and the National Commission on Indigenous Peoples. They are demanding for an accounting of where their royalty payments from Rio Tuba nickel mining went."[11] What set off this petition is the data from 2012-2014 PH-EITI reports, which showed that millions of pesos in royalties have been paid to the tribes. Attorney Mayo-Anda verified this: "Gerry Brimo has been boasting that their royalties are more than 100 million already. However, there is no trickle down effect. The trucks and equipment are not accessed by the ordinary indigenous people. They have a complaint lodged to the Regional Director of the NCIP."

CHANGES IN GOVERNMENT

One of the internal drivers of change in government was the sharing of tax revenues between the national government and the local governments. The national government collects excise tax and tax on mineral royalties (where applicable) from mining companies. A term for these type of taxes is "national wealth." By law, a percentage of national wealth is shared with local governments. It is a common sentiment among local communities who have to deal with the negative impacts of mining that they are not even receiving their share of the revenues from the companies operating there.

Generating the datasets that specifically disaggregate and track the flows of funds from each agency allowed PH-EITI to find bottlenecks that have been delaying the process of allocating funds to the local governments. PH-EITI has recommended that the national government report the shares released to local government—pending a joint policy between the collecting agencies, the Department of Budget and Management (DBM), and the Bureau of Treasury. PH-EITI has also recommended that the DBM submit information on the collection and disbursement of LGU shares (indicating year collected and year transferred).

Availability of disaggregated data: The datasets produced the in the past five years have been one of the important contributions of the initiative. Types of datasets include information on contracts, licenses, taxes, and fees paid by companies and collected by government; social and environmental expenditures by companies, employment data disaggregated by gender, foreign/local, contractual/regular; and supporting documents for the claims, among others. PH-EITI has been steadily improving its scope ever since they produced their first report in 2014. Data is available on 38 out of 55 targeted companies in 2017. Greater transparency has also been achieved from the inclusion of non-metallic mining companies in EITI's latest report. In addition to this, an increase has

GOVERNMENT CHANGES

Gina Lopez - environmentalist and anti-mining advocate

Roy Cimatu - DENR Secretary

GINA LOPEZ

ROY CIMATU

also been seen in the number of participating LGUs from 32 to 57. Still, there are areas where it needs to improve. The largest coal producer in the country, Semirara Mining and Power Corporation, continues to avoid participating in EITI for four straight years. On the other hand, the National Commission on Indigenous Peoples' (NCIP) lack of capacity is shown through the variance in the royalties they report. Compared to other government agencies, they have the highest variance post-reconciliation as a percentage of amount they reported.

Access to mining contracts: One of the early negotiation topics in the PH-EITI journey was access to the mining contracts between the government and the mining firms. These were previously difficult to obtain and only aggregated information were available to researchers and journalists. Through the monthly multi-stakeholder group meetings, these full contracts are now uploaded in the Open Contracts micro-portal. When the Philippines began their EITI candidacy, the standards only covered disclosure of payments made by companies and taxes received by government agencies. There have been two iterations of the standard since 2011, and it has expanded to include more a detailed description of the legal framework, fiscal regime, production data, and contracts. The reporting standards required under EITI participation provide much greater visibility. These datasets have been the basis for developing better systems for sharing and tracking revenues.

Tracking flow of funds: In pursuance to one of PH-EITI's recommendation for data disaggregation, the Department of Interior and Local Government and the Department of Finance's Bureau of Local Government Finance have developed the Environment and Natural Resources Data Management Tool (ENRDMT). The ENRDMT is a reporting tool that can integrate the reporting requirements of PH-EITI by including it in the quarterly statement submitted by LGUs to the central government. The tool is useful for potentially identifying the share of LGUs from mining revenues and for knowing the sector where the revenue is spent.

ONGOING CHALLENGES
While all parties recognize the progress they have achieved over the past five years, there are two critical areas that PH-EITI will have to tackle.

Tracking of beneficial ownership of these companies: This is a new disclosure requirement being adopted by the International EITI after the series of exposés on tax havens like the Panama Papers and Paradise Papers. In relation to extractive industries, it has been found that funds from oil, gas, and minerals from different countries have been funneled to these shell companies either for multinational companies to avoid paying taxes or for corrupt government officials to hide their ill-gotten wealth. In the Philippine case, tracking down beneficial ownership will ideally establish if politically exposed individuals have a share in the income of mining firm. As of now, the implementation of this standard is still being developed by EITI.

Institutionalizing PH-EITI: For several months, there was uncertainty on whether the new administration will continue support for PH-EITI. The EITI Bill is being discussed now in the legislative Technical Working Groups. The passing of the EITI Bill is one of the Philippine government's commitment in the 2017–2019 OGP action plan. It is very important that government support and funding for the PH-EITI Secretariat and the activities of the initiative are secure.

SHIFTING POLITICAL AND LEGISLATIVE WINDS
Initially, environmentalist and anti-mining advocate Gina Lopez was appointed as Department of Environment and Natural Resources (DENR) Secretary under President Rodrigo Duterte in 2016. This was a radical shift, whereby environmental CSOs were able to get direct access to the DENR Secretary while industry was almost shut out from the discussion. This resulted in a flurry of activities, starting with mine audits in late 2016 that caused 75 mine closures in early 2017[12]. However, she was not confirmed in her post by the Commission on Appointments Hearings at the legislative level. Senators and Congress members refused her confirmation three times, and the president did not renew her appointment after that.

She was replaced as DENR Secretary by Roy Cimatu in May 2017[13]. While it has been relatively quiet the past six months, COMP admits to having direct access to Secretary Cimatu. They just declared a responsible mining summit in January 2018. It is expected that the 75 mine closures will be reviewed by Secretary Cimatu by March 2018[14].

Additionally, there is a comprehensive tax reform program being undertaken by the legislative branch. Excise taxes of mining firms were increased from 2% to 4% of gross sales[15]. There are still a couple more packages under the tax reform and corporate taxation is coming next. Both industry and civil society are closely monitoring and participating in this debate.

The difficult political environment in the Philippines under the present Duterte administration has been challenging for all players involved in PH-EITI. While progress can be slow, and often times justice can be thwarted (as in the case with the frequent murders of journalists and environmental activists), having a platform that can make meaningful progress in introducing transparency, regulations, and accountability to the extractives sector is vital.

Action plans created through the MSG are key to strengthening accountability, and curbing malpractice and illicit activities in mining. However, with competing priorities in Congress, and the upcoming elections in 2019, there needs to be greater ownership for advancing meaningful reform in the extractives sector. The main challenge ahead is to strengthen and further institutionalize the PH-EITI. The potential for improvements in the overall investment climate, and for local mining communities to benefit, provides key actors with the incentive to work collaboratively and develop extractives regulations that benefit the people. ∎

Paraguay

Establishing Municipal Development Councils for Local Planning

Celeste Gómez Romero.
Researcher, Centro de
Estudio Ambientales y
Sociales (CEAMSO)

Going local

A PLATFORM FOR CITIZENS TO INFLUENCE LOCAL DEVELOPMENT

Martín González, former mayor and current advisor to the Paraguayan municipality of Itaugua, is a passionate local activist and a highly respected member of his community. He dreams of a day when Itaugua will develop to become a model sustainable city, "In my role as a citizen, in my role as former Mayor, I always have a vested interest in my city, my community." For people like Martín, Paraguay's new Municipal Development Councils (MDCs) have been an opportunity to engage more actively and deeply in improving the health and welfare of the local community. Piloting the MDC model has been a key part of the government's strategy to improve development outcomes by decentralizing governance, emphasizing more participatory decision-making in local development planning, and encouraging public sector responsiveness and accountability.

With a population of nearly 7 million people, Paraguay ranked 110 out of 188 countries in the 2016 United Nations' Human Development Report. Despite visible progress—reflected in growth of income per capita over the past few decades and Paraguay's upgrade to the status of Middle Income Country—a number of significant challenges still remain. To illustrate, 80 percent of the population still practices self-medication due to the high costs of healthcare, and only 3 in 10 Paraguayan students complete 12 years of schooling with only 1 in 10 students going on to attend university. [16]

Over the past couple of decades, the government's strategies to stimulate equitable development have gone local, featuring a decentralization of government administration. Such efforts originated in the early 1990s with the restoration of democracy in

the country, and through the establishment of democratic rules in the 1992 Paraguayan Constitution[17]. Under the new constitutional mandate, MDCs were meant to be established as a means for local development.

As a forum that provides a voice to local residents, activists, and civil society organizations, MDCs serve as a much needed platform for citizens to influence local development agendas, and have their most pressing needs addressed. The MDCs are consensus bodies for local, current, medium and long-term issues. Through them, citizens and vulnerable groups interact more closely with their authorities and influence public policy decisions.

MUNICIPAL DEVELOPMENT COUNCILS: HOW THEY BEGAN

Paraguay's government is comprised of 17 departments (or provinces), each having governors elected by popular vote, in addition to 254 municipalities with mayors elected by popular vote. Before the Ministry of Planning for Economic and Social Development (STP) set up the guidelines to create the MDCs, the main actors taking the decisions at the local level were Mayors and Governors. Decisions were likely to be made unilaterally.

Florencia Villalba, General Director of Development and Territorial Planning for the STP notes, "All decision making was done by the Mayor and his closest team members on general issues. But for other cases there were several councils established by laws that are sectoral in nature, such as the Local Health Councils, the Children's Council, Education Councils etc., and they had already established regulations and procedures for the decision-making process. Nevertheless, in many instances, instead of facilitating decision making it often became a problem for the mayors of municipalities as they were required to participate in all of them."

Having been a member of Open Government Partnership (OGP) since 2011, Paraguay's government redoubled its efforts to improve local governance through its second action plan (2014-2016), committing to strengthen and create MDCs across the country. The Ministry of Planning for Economic and Social Development (STP) led the initiative with the aim of creating at least 50 MDCs across the country. While the goal of creating 50 councils was achieved within a year, the real ambition had always been to scale up coverage throughout the country.

To operationalize these development councils, the STP set up a few important milestones such as holding a forum for key actors in territorial development, and conducting a diagnostic study on their present capacities. The STP also established important strategic alliances, including one with the Ministry of Finance requiring all municipalities to draft and present participatory Local Development Plans (LDPs) as a condition for receiving funds. LDPs were prepared following the decree of the Ministry of Finance, and had to be delivered to the STP in June 2016 according to the regulations.

The new approach mandated an open and participatory process to develop the LDPs. First, the STP held regional meetings to inform the public about the establishment of MDCs. Second, municipalities and governors were trained on how to follow a participatory process to draft the LDPs and align them with the main objectives of the National Development Plan—Paraguay 2030. As a result, 2800 trainings of local actors from the public and private sectors and from civil society took place to support the participatory planning process in accordance with the National Development Plan.

THE STORY OF ITAUGUÁ: HOW PARTICIPATORY PLANNING TOOK ROOT

Itauguá, known as the 'City of the Ñandutí' (a traditional embroidered lace), is home to more than 89,000 inhabitants and is located in Paraguay's most populated province, the Central Department, 30 kilometers from the capital. The dynamic coexistence of rural and urban areas is one of the most

"The municipality made its management transparent so that people understand the functioning of the institution and want to engage themselves when they observe that the municipality is working. Additionally, people are actively trying to improve their habitat – if in their neighborhood they see a need, they organize and work with the municipality"

Martín González, former mayor and current advisor to the Paraguayan municipality of Itaugua

> **The STP established an important strategic alliance with the Ministry of Finance, requiring all municipalities to draft and present participatory 'Local Development Plans (LDPs)' as a condition for receiving funds.**

extraordinary aspects of Itaugua, receiving migration from other rural areas as well as from the capital, due in part to new and complex government housing policies. The social diversity in this community is rich and unique, yet development challenges such as poverty and service delivery failures remain significant.
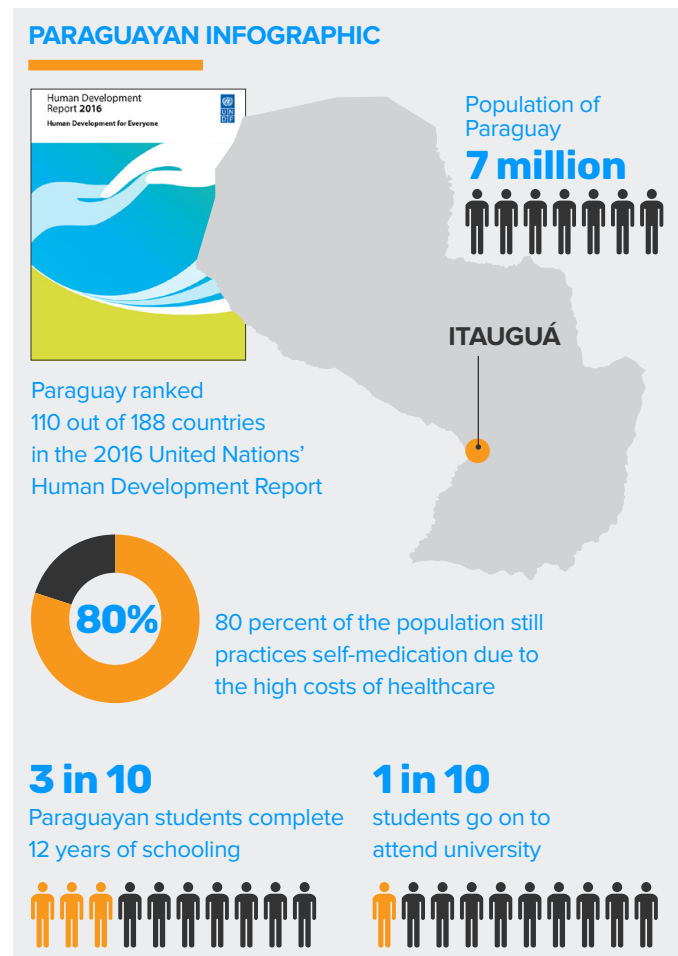
When Martín, the former mayor of Itauguá, learned about the mandate to co-create LDPs, he decided to take a leadership role in the initiative. Under the leadership of the mayor of Itaugua Miguel Acosta, Martín consulted with a few key actors to establish the group that would draft and implement the Local Development Plan in Itauguá. The first person he contacted was Noelia, Martín's former colleague who was also one of the founders of Itauguá's Local Health Council. Both Martín and Noelia had the difficult task of initiating a participatory process to co-create the LDP within a short period of time. They knew that this plan could only achieve lasting success through the full ownership and participation of the community.

Local authorities in Itauguá initiated planning activities starting with an institutional diagnosis, which identified the strengths and weaknesses of the municipalities. This was followed by an invitation to the most active and representative organizations in the city to develop a participatory budget that identified the city's challenges and prioritized solutions.

Both for the creation of the MDC and for the elaboration of the LDP of the city, a large scale participatory process was held, including substantial representation of the public. Councilwoman Mirian Salinas, vice president of the Itauguá MDC recalls those first moments: "First of all, we had a big meeting with the whole community and the local authorities. People from the Ministry of Planning and Economic and Social Development also came to support us and to explain what the Municipal Development Plan consisted [of]. Then, we began to organize the sub-committees." The sub-committees were by issue area: Production; Health; Education; Childhood and Adolescence; Environment; Security; Infrastructure; Culture, Manufacturing and Sport; and Youth. They were composed by direct citizen inputs, neighborhood organizations, civil society organizations (CSOs), and executive branch and municipal civil servants.

Martín knew that community development planning processes are difficult and exhausting, but according to him, changes within the

community are possible. He emphasized that it is only through civic participation and engagement that local governments become more open, responsive, and citizen-oriented. "We are interested in working to strengthen citizen participation, thus we have implemented public consultation mechanisms in order to hear the neighbourhood commissions' demands." The important thing was to give a voice to community members at the neighbourhood level. The mayor of Itauguá voiced a similar sentiment, saying that "In fact, the neighbourhood committees are the strong point of all the work, without the committees and the people, we would not have achieved what we did."

PARAGUAYAN INFOGRAPHIC

Human Development Report 2016
Human Development for Everyone

Paraguay ranked 110 out of 188 countries in the 2016 United Nations' Human Development Report

Population of Paraguay
7 million

ITAUGUÁ

80% 80 percent of the population still practices self-medication due to the high costs of healthcare

3 in 10 Paraguayan students complete 12 years of schooling

1 in 10 students go on to attend university

THE LOCAL DEVELOPMENT PLAN: HOW IT LED TO IMPROVEMENTS IN PUBLIC SERVICES

Participatory budgeting was carried out under the MDC through a citizens' assembly. Under the framework of the MDCs, and considering key strategic areas identified by municipal civil servants (from the institutional diagnosis of capacities), the residents of the city defined and prioritized their needs which were approved as part of the budget for the year 2018. "We were already doing certain things in the framework of the Local Health Council and the Education Council, but after the LDP, the Security, Environment and Economic Sub Committees were formed, as a result of the main priorities of the Plan", recalls councilwoman Mirian Salinas. The following thematic sub committees were also created: childhood and adolescence council, the youth council, and working groups for agricultural production. The MDC platform and the LDP allowed the public sector to be more responsive and deliver more efficient services.

Health
Martín recalls one of the demands that emerged during the consultations was dealing with mental health issues such as depression, suicide, and drug addiction problems. Aureliano Vivé, member of the Local Health Council says, "the demand arose to hire a psychiatrist who now attends the District Hospital." He pointed out the collaborative approach adopted by the community: "the answer from the public sector was scarce and there was no professional crew in the Psychiatry Department. [Thanks to the plan] we had the opportunity to work with a recently graduated doctor who was doing her internship in psychiatry, so she came to work at the district hospital, through the Health Council [. . .]. She worked with a young person with depression by channeling his interest in music, providing him with guitar lessons from the Culture Department of the Municipality, as a part of his therapy."

Thanks to public participation in the MDC, they have also addressed the demands of people with disabilities. As Nunila, mother of Matías, a patient of an assistance centre for people with disabilities in the city of Asunción said, "the municipality arranged an ambulance to go to Teletón (a private assistance centre) from Itauguá. Itauguá is the only city from which we go in an ambulance provided by the municipality [. . .] it give us a ride, it brings us back, it looks for us from our house and we do not pay fares, nor fuel, even in rainy days."

Agricultural Production
Farmers have also benefited from the assistance generated by the MDC. There were 42 committees of agricultural producers that presented their projects and currently the municipality has initiated a procurement to get the requested elements for their farms. The Municipality also acquired a property to pilot a greenhouse field to test the feasibility of hydroponic nutrient film technique (NFT) production.

Cecilio Gonzalez, a producer of tomatoes in the Potrero Guazu district, recollects the technical support provided by agriculturalist, Rodolfo Villasboa, from the municipality: "I used to plant tomatoes closer to one another, because I thought that they would give me more production and yet I was wrong. He said 'you should plant your tomatoes 50 to 60 cm apart to be able to aerate them and create a wind channel. That's how I learnt about this technique. I implemented the measure and it proved to be good. Since then, I have been able to harvest a better product...the quality is better". Cecilio says that Rodolfo also taught him how to grow produce throughout the year, and he is currently able to have year-round production that is being sold in local markets.

The producer coordination committee is a platform that aggregates inputs from the local farmers and helps to follow up the demands and the implementation of the LDP. The platform was established after the participatory budget process. Rodolfo comes from a humble farming family from the area, and as a civil servant he is committed to improving local development. He emphasizes that social accountability is essential in making public administration more transparent: "The reason we created the Producer Coordination Committee is to have more control. It allows me to monitor the contracting process for each tender. I believe that the producers are now calmer because they have an ally, so to speak. I always work in favor of producers because I am a producer myself, my parents are producers and I know the scarcity they go through". Rodolfo also highlights the importance of working above partisan interests for broader community development goals: "I do not consider any partisan affiliation, if a producer is conservative or liberal, or whatever his political party, if they need my help, I will be there to support them."

Water and Sanitation
The LDP has also established goals to expand coverage of potable water to families and latrines for homes. Following a commitment in the LDP, the municipality has also built toilets in public squares. The municipality also executed a project of cleaning water channels, reducing the problem of wastewater.

Education and Nutrition
One of Itauguá's LDP annual goals is to support public schools with school lunches. The School Feeding Program, which includes school snacks, school lunches, and healthy canteens, is implemented by the Ministry of Education and Sciences (MEC) in coordination with the regional government and municipalities throughout the country. They implemented a procurement process with the requirement that vendors will acquire the ingredients through the association of local producers. This initiative is funded through the Public Investment and Development National Fund. 1,429 children have benefited from this program, each school has a cook and a kitchen assistant for every 100 children.

Traditional Manufacturing
One of the sectors recently organized under the MDC has been the Ñandutí weavers. The weavers fall under the Culture, Manufacturing and Sport subcommittee. While they do not receive any direct funding, they receive support

from the municipal culture department to organize more effectively for trade fairs. The weavers were able to participate last year at an international fair in Spain, albeit through their own funding. The sector has also had a tourism proposal accepted, called the "Vivencial Circuit of Ñanduti", which offers tourists day trips through the cities of Pirayú and Itauguá. The municipality is further working to have closer coordination with the executive branch for the promotion of weavers' needs.

The Promise of the Municipal Development Councils

The open government approach underlying the MDCs emphasize the value of public participation, as development is not simply about coming up with technocratic solutions. "Although LDP elaboration is an obligation because the Municipal Budget Law obliges municipalities to do so, it is only through civic participation that it makes a difference. Here in Itauguá, there was a lot of participation from many people coming from different sectors and different political parties", says Noelia Torales, a volunteer in the local development planning process.

Participatory budgeting in Itauguá forced municipalities to be more responsive in the allocation of resources, since it is the citizens themselves who identify and prioritize which problems will be addressed. This culture of participation was enhanced by sharing information about the resources at the municipality's disposal, its budget constraints, and the capacity of various departments and civil servants. "The municipality made its management transparent so that people understand the functioning of the institution and want to engage themselves when they observe that the municipality is working. Additionally, people are actively trying to improve their habitat - if in their neighborhood they see a need, they organize and work with the municipality", notes Martin.

Councilwoman Mirian Salinas pointed out, "People liked the approach to civic participation - many people got up and thanked us because it was the first time that this opportunity was given and that motivated them to work on this initiative because if people have the chance to participate they do so...it's a matter of giving it a go."

Active stakeholders of the Itauguá MDC provided some key insights on what enabled a good participatory planning process:

- Political and institutional leadership are highly important to create the space for public participation - When such conditions do not exist, the task of creating LDPs fall on technical consultants or mayoral cabinet members in silo, and are often not in line with the priorities of citizens or municipal authorities.
- Conducting an institutional diagnosis of the municipalities' capacity is critical in understanding their constraints to resolve challenges and address citizen demands
- Progressive public officials committed to transparency and fighting corruption identified participation processes as a key means for accountability and putting the interests of citizens above exclusionary practices.
- Active and engaged citizens and civil society organizations are key drivers of the reform process.

CONCLUSION

While Itauguá is a successful example of MDCs being put in practice, the quality of the participatory processes varied substantially among the 225 municipal and 15 departmental councils that were established. Each municipality developed its own process and focused on topics according to their context and constraints. Florencia Villalba, General Director of the STP notes:

> "We must recognize that the participatory process is not very uniform across councils. Some have strengthened enormously and managed to influence decision-making in their municipalities. Others have focused on working on specific issues such as generating income through municipal fairs, tackling environmental issues, or on the needs and problems of their districts".

STP's officials note that their main challenge is to keep the councils running. To achieve that goal, the institution has prepared support material to strengthen the operation of the MDCs, as well as developing a monitoring plan for the process of implementation. These resources have been provided to all the formed councils, including a "Matrix for Monitoring the Municipal Development Plan", an instrument that serves as a reporting tool to measure progress on commitments.

Ultimately the sustainability of MDCs depends on the strong ownership and capacity of national, departmental and municipal authorities, with well organized coalitions of civil society actors and residents. It is critical to ensure that adequate resources have been budgeted and allocated for the Ministry of Planning for Economic and Social Development, and for local government units so that the process does not lose momentum. A strategy to further sensitize and engage all the institutions involved in local development on successes and challenges of this initiative is also necessary for future iterations. Additionally, having a publicly accessible website with information on MDCs will be crucial to compare how the different municipalities and departments are doing in terms of process, commitments made under local development plans, and progress on implementation. Finally, the MDCs also need to have a strategy in place for continued engagement, so that residents and civil society actors are able to bring up concerns outside of the LDP cycle.

Martin noted that a cultural shift is also needed within the civil service, "We cannot deny that corruption is prevalent in the country. The civil servants generally believe that they can do whatever they want, and that nothing is owed to citizens. You have to make the civil servants understand that [service delivery] is their duty. [...] I have a deep commitment with the Municipality and we are always making an effort to work in a better way. However, we know that there is still plenty of room for improvement in our work, especially in health, social and economic welfare for historically marginalized groups". ■

United Kingdom

Curbing Money Laundering Through Beneficial Ownership Transparency

Alice Powell
Research/Communications
Consultant

The shroud of corruption

WHY DO ANONYMOUS COMPANIES MATTER?

Whether by spending and hoarding ill-gotten gains or siphoning off their countries' resources, kleptocrats, criminals, and the corrupt have a key thing in common: anonymous companies. Their activities and financial crimes have been enabled by companies whose ownership has been obscured, which can then be used for nefarious ends.

It is essential not to underestimate the scale or impact of this issue that affects people all over the world - from local communities in mining villages who lose out on development opportunities,[18] to those caught up in the violence of the drug trade,[19] to taxpayers who pay over the odds for poor services because of corrupt procurement.[20] The Global Financial Institute estimated that anonymous shell companies were facilitating the illegal outflow of roughly $1 trillion from developing countries every year, while World Bank research found that 70 percent of corruption cases analyzed involved anonymous shell companies.

The United Kingdom is intrinsically linked to this secretive financial network. To pick just one example, four companies registered in the UK were at the heart of the "Azerbaijani Laundromat," a massive money laundering operation exposed in September 2017. This operation involved USD $2.9 billion being funneled from sources close to the Azeri and Russian governments through these companies before allegedly being spent on luxury goods and bribing European politicians. Beneficial ownership transparency is about getting to the heart of who really owns, controls, and benefits from companies, thus making it harder for company structures to be misused for nefarious ends.

> According to the National Crime Agency, as much as $120 billion a year is laundered through the City of London alone.

LIFTING THE CLOAK OF SECRECY

In 2013, at the Open Government Partnership (OGP) Summit in London, then-Prime Minister David Cameron announced that the UK would create a public register of beneficial owners of British companies: "For too long a small minority have hidden their business dealings behind a complicated web of shell companies, and this cloak of secrecy has fueled all manners of questionable practice and downright illegality…together we can close the door on the shadowy, corrupt, illegal practices once and for all." The public register was also presented as having benefits for the economy, for businesses, and as a means to lead by example and inspire increased transparency around the world.

This public commitment can be seen as the crest of a wave that had been gradually building, with pressure for change coming from various sources. Firstly, the UK had been hit by various tax scandals, involving large companies such as Starbucks and Amazon who had avoided millions in corporation tax.[21] These revelations, at a time of austerity measures and cuts to public services, inflamed public opinion. The government was therefore under pressure to take action against tax avoidance and evasion. The UK government was also then positioning itself as a champion of transparency, and had adopted a tax, trade, and transparency platform for its presidency of the G8. Indeed, it was at the Lough Erne G8 Summit in June where countries endorsed the G8 principles on beneficial ownership transparency, and committed to making information on beneficial ownership accessible through central registers. These principles, however, did not require that the registers be made public.

OGP helped tip this momentum into a high profile commitment for a publicly available register. The fact that the UK was, at the time, co-chair of the partnership and hosting the OGP global summit provided a natural focus for campaigners. Indeed, anti-corruption activists saw the months between Lough Erne and the London Summit as a campaigning window.[22] A civil servant from the Department for Business, Energy & Industrial Strategy (BIS, now BEIS) described how civil society's arguments and campaigning helped make the case for a register that was open and publicly accessible. The UK's chairmanship and summit also added extra pressure on the government to announce a landmark transparency commitment.[23]

This commitment was not only realized as part of the UK's 2013–2015 Action Plan (AP), but also under the auspices of the UK's G8 action plan on beneficial ownership and as implementation of the EU's Fourth Anti-Money Laundering Directive (4AMLD), which was being negotiated at the time.

IMPLEMENTATION OF A COMPLEX COMMITMENT

The fact that the commitment was realized on time - and that the process was smooth - was by no means a given. The task was complex and the UK was the first country to take it on. Establishing the register would require legislative change, extensive communication with the business community, technical work on beneficial ownership definitions, and the creation of an infrastructure to collect and publish the data. All of this was to be done while balancing the need to make the data as useful as possible and minimizing costs to businesses.

The lead department for implementing the commitment was the Department for Business, Innovation and Skills, working with Companies House. Companies House is an executive agency sponsored by BEIS and tasked with incorporating and dissolving companies, examining and storing company information, and making it available to the public.

Chris Taggart from OpenCorporates related how skeptical people had been about the whole endeavor: "Opponents were saying this register couldn't be done, that it would be a nightmare and would affect people who don't need to be affected. At an OGP event, one attendee even said that 'you'll never get it out of the door.'"

MARGARET HODGE

DAME MARGARET HODGE STATEMENT

"As we started looking at how companies were shifting their profits over jurisdictions to avoid tax and hide money, it became clear that transparency was key both in tackling financial crime and in ensuring that people pay the right amount of tax in the jurisdiction where they carried out the economic activities. You could see that if we could have public registers that show who owns what where, then you can start to track illicit money and you can start to track that people are paying tax where they should. Otherwise we are losing income, which means services are cut or ordinary people who pay their taxes have to pay more: the rich and powerful win. This is particularly important for people in developing countries, who lose three times more in illicit flows than they gain in foreign aid." **Dame Margaret Hodge**

> Open datasets enable large-scale investigations as well as helping journalists, civil society, or investigators spot discrepancies and identify leads worth pursuing.

The following factors were important in ensuring the successful realization of the register in the face of these challenges:

Legislative framework: Amendments to the Small Business, Enterprise and Employment Bill, which contained the primary legislation for the register, became law in May 2015, and the UK's Persons of Significant Control (PSC) register regime came into force a year later in April 2016.[24] This legislative basis allowed Companies House to publish the register in June of that year.

Political support: Support for the policy was not only widespread, but came from the highest levels, including Business Secretary Vince Cable and the Prime Minister himself. This helped ensure that there was momentum behind the process to create the register. Robert Palmer, a campaigner for Global Witness at the time, pointed out that the high profile nature of the announcement—by the Prime Minister at a global summit hosted in London—also helped ensure the commitment's timely implementation.

Collaborative approach: During the process, Companies House and BEIS regularly communicated with and received input from civil society and the business community. This helped ensure that stakeholders knew what was required of them and that the register would be adapted to user needs. Crucially, Companies House made the data available through an Application Program Interface (API) and set up a developers forum to communicate with end users. Through this forum, Companies House respond to questions about the data, resolve data issues that have been flagged by users and provide bulk data on request. Sam Leon, data lead for Global Witness, explained that even if they don't take up every suggestion—civil society, for example, has been pushing for unique identifiers for beneficial owners—Companies House "have shown themselves willing to listen."

Iteration and adaptation: Such a register is unlikely to be perfect the first time around, and it is only once it is live that certain issues will become apparent. By prioritizing its swift implementation, both government and civil society were able to iteratively work on improving the register after its launch. For example, following feedback from a data-dive conducted by civil society organizations, Companies House will roll out a new way of inputting nationality (drop-down rather than free entry) in 2018. The analysis by civil society of PSC data had revealed that there had been 500 different expressions for "British" used, with even some instances of "Cornish" (Cornwall is a county in Southwest England). Such typos make it harder to analyze the data in bulk, to identify a person and cross-reference them with other data sources (such as lists of politically exposed persons). The aggressive timeline also meant that time had been "built in" between the register going live and the transposition deadline for the EU's Fourth Anti-Money Laundering Directive (4AMLD), which included a requirement for a central register.

EARLY RESULTS: USE OF THE REGISTER

According to Companies House, the information on the PSC section of their site (the online companies register), is being accessed 20,000 times a day.[25] As well as being accessible online, data on beneficial owners can be retrieved through the Companies House API; this means that anyone can analyze the data as a whole and cross-reference it with other datasets. This enables large-scale investigations as well as helping journalists, civil society, or investigators spot discrepancies and identify leads worth pursuing. For example, beneficial ownership information can be cross-referenced with lists of politically exposed persons (PEPs) or with people on sanctions lists. The type of civil society organizations that might be interested in using the data include those involved in campaigning, research, or investigations on matters ranging from tax evasion, to money laundering, or to natural resource corruption.

Data use by the private sector: The data from the PSC register has been incorporated into a range of risk, compliance, and business intelligence technology products, including Arachnys and Orbis. Paul May, Editor at Arachnys, explained: "The UK PSC data is instrumental in enabling our clients to track reported beneficial

POLITICAL SUPPORT

Then Business Secretary Vince Cable and the Prime Minister David Cameron helped ensure momentum to create the register.

DAVID CAMERON

OGP Summit London 2013

VINCE CABLE

ownership accurately. The Companies House API has enabled us to produce technology using machine learning and dynamic network maps to illustrate financial relationships: vital for our users conducting anti-money laundering research, business intelligence or know-your-customer information." A BEIS civil servant stated that he often speaks with people from the financial sector who use the register several times a day when looking at new clients.

Data use by the government: A BEIS employee reported that in most general information-related guidance for law enforcement officers, the register is being put forward as a resource to be looked at in investigations.

Data use by civil society and journalists: There are several examples of the register being used by civil society organizations and journalists:

• In late 2017, Global Witness and DataKind conducted a fresh analysis of the PSC data, examining more than 10 million corporate records from Companies House. In their early findings, they revealed that thousands of companies were either not complying with the PSC regulations or were submitting information that raised red flags. For example, 4,000 beneficial owners were listed as being less than two years of age and five beneficial owners were found to be controlling more than 5,000 companies.[26] BBC's radio program File on 4 used these findings in their episode "the Great British Money Laundering Service" in February 2018.

• Private Eye, a news and current affairs magazine, identified 42 overseas politically exposed persons as beneficiaries of UK companies.[27]

• The data has been incorporated in OpenCorporates, the world's largest open database on companies, as well as OpenOwnership, a global register of beneficial ownership data. OpenCorporates works directly with people requesting support in extracting data. According to Chris Taggart, "We know from work we've done with CSOs [civil society organizations] and talking with law enforcement that the data is useful."

• During the data dive mentioned previously, CSOs and data scientist volunteers generated potential investigative leads, identifying a number of beneficial owners that matched potentially

exposed persons (based on name and month of birth) including senior politicians (19), people on U.S. sanctions lists (76), and disqualified directors (267). They also found that some recipients of government contracts were companies with beneficial owners based in tax havens.

• In a demonstration of what is possible when governments publish information as open data, Global Witness and DataKind also used cloud computing and artificial intelligence to monitor and identify potentially suspicious addresses, individuals, and companies in their analysis. The full findings will be published later in 2018. Global Witness are furthermore building a visual exploration tool, currently at the testing phase, to help investigators explore the UK PSC data.

Spillover effect: Companies moving jurisdiction?
Has the introduction of the register led to certain UK company structures becoming less attractive to financial criminals? Transparency International and Bellingcat, a group of open source investigators, unearthed some interesting evidence in their study focusing on the abuse of Scottish Limited Partnerships (SLPs) for money laundering.[28] Researchers identified some instances of corporate partners that appeared to move from controlling Limited Liability Partnerships (LLPs) to being partners in SLPs after the legislation requiring LLPs to register their beneficial owners had passed.

SLPs are a corporate vehicle particularly prone to abuse; in an analysis by Transparency International on UK companies used for money laundering, researchers found that SLPs featured as the company vehicle in just over a fifth of the cases, even while they made up less than one percent of businesses registered at Companies House.[29] SLPs had originally not been required to submit information on their beneficial owners, an oversight which was rectified in June 2017 when the legislation transposing the 4AMLD was passed.

In early November 2017, Bellingcat examined the filings of SLPs that had been incorporated between 1 January 2016 and 31 October 2017 and found that a third had still not filed their PSC statement, while another 30 percent had named "an individual or corporate vehicle" as their PSC, which is against the rules. A broader analysis by the Herald, examining tens of thousands of filings, found in September that only 2,000 of roughly 24,500 SLPs had filed an actual person as their PSC—a little less than 10 percent. The government later put this figure even higher—estimating that around 28,000 SLPs had failed to comply with SLP regulation.

In December 2017, The Herald revealed that hundreds of SLPs were sidestepping the rules by filing English Limited Partnerships—a vehicle not required to reveal its beneficial owner—as a PSC. They conducted their research after finding that an SLP linked with the son of former Ukrainian President Viktor Yanukovych (both are currently in hiding in Russia after corruption charges) had stated it was owned by a recently incorporated English LP. In January 2018, The Herald also revealed that hundreds of SLPs headquartered at one of the country's largest law firms, Paul Burness, had failed to reveal their beneficial owners. One of these companies has since

SCOTTISH LIMITED PARTNERSHIPS

SLPs were sidestepping the rules by filing English Limited Partnerships—a vehicle not required to reveal its beneficial owner—as a PSC. They conducted their research after finding that an SLP linked with the son of former Ukrainian President Viktor Yanukovych

VIKTOR YANUKOVYCH

OLEKSANDRA YANUKOVYCH

According to the UK's Independent Reporting Mechanism (IRM) report, the beneficial ownership register had a 'ripple effect,' contributing to commitments being made for similar registries in a number of other countries including France, Nigeria, and Afghanistan.

been accused of involvement in a bribery scandal concerning the former Peruvian President Alejandro Toledo.

Another interesting trend has been a drop-off in new SLPs since they have been obliged to publish their beneficial owner. The BBC reported that there has been an 80 percent drop-off in the number of SLPs being registered since July 2017, when SLPs came into the purview of the PSC regime.[30] The Scottish Herald hinted at a parallel uptake in English limited partnerships (not in the purview of the register): 64 registered in the week the rules came into effect, compared to just 13 the week the rules were announced. While we cannot state categorically that corporate partners chose to shift jurisdiction to escape beneficial owner disclosure, they do suggest an interesting trend to track and a potential lead for investigators.

Ripple effects: A new global norm for beneficial ownership
Given the complexity and groundbreaking nature of an open register of beneficial owners, the UK's commitment for and realization of the register helped demonstrate that such a goal was feasible. Furthermore, campaigner Nienke Palstram explained that the uneventful implementation of the PSC regime and the publication of the register helped quell people's concerns over security and privacy issues. By publishing the register in open format, the UK set an ambitious benchmark for how this data could best be presented. Its experience has been used by other countries implementing registers as an example and opportunity for peer learning.

Robert Palmer explained that the UK's register "definitely helped" in promoting registers elsewhere, and particularly had an impact on the content of the 4AMLD, as well as encouraging the G20 to adopt the High-Level Principles on Beneficial Ownership Transparency, which it did in November 2014. The 4AMLD required each EU member to maintain a register of ultimate beneficial owners of national companies (although the directive did not state that these registers need be public).

Since then, progress on beneficial ownership transparency has continued apace. The Extractive Industry Transparency Initiative (EITI)—which had been pushing for beneficial ownership transparency since 2013—changed its standard in February 2016 to require that implementing countries (of which there are more than 50) reveal the beneficial owners of extractive companies in

their sector by 2020.

At the London Anti-Corruption Summit in May 2016, six countries committed to implementing a public register of owners, while a further five committed to "exploring" such a register.[31] This progress in beneficial ownership transparency was echoed—and possibly amplified—through OGP, with 15 countries including beneficial ownership transparency commitments in their national action plans (NAPs) by the end of 2017, six of which specifically include the creation of a publicly available register of beneficial owners. Ukraine and Denmark established registers of their own, with Ukraine in 2017 becoming the first country to integrate its central register with the Open Ownership database. Open Ownership is a collaborative project to create a global register of beneficial ownership information, using data from public registries and other sources. As well as the register, Open Ownership is developing an open data standard for collecting and publishing beneficial ownership information.

In December 2017, the EU agreed on amendments to the 5th Anti-Money Laundering Directive (5AMLD), which included a requirement that all member states make beneficial ownership information available to the public via a public register (although a small fee might apply).

Finally, a crucial milestone was the vote by the British Parliament in April 2018 to require the UK overseas territories (BOTs) to establish public registers of beneficial owners. These territories include some of the world's most notorious tax havens, and more than half of the companies named in the Panama Papers were registered in BOTs.

The UK register was, however, only one of the contributing factors that has helped promote beneficial ownership transparency. Other drivers included the publication of the Panama Papers in April 2016, one month before the London Anti-Corruption Summit. The leak of more than 11.5 million documents from the offshore law firm Mossack Fonseca brought to light stark and concrete examples of how a lack of transparency around who really owns companies enables corruption and tax dodging worldwide. The work by journalist groups such as International Consortium of Investigative Journalists (ICIJ)—who won a Pulitzer prize for their Panama Papers reporting—and Organized Crime and Corruption Reporting Project (OCCRP), helped keep these issues at the forefront of public

debate, as did the subsequent Bermuda and Paradise Paper leaks.

EITI also had a critical role in advancing beneficial ownership transparency, in changing the standard it demonstrated that beneficial ownership transparency was becoming a norm accepted by companies, governments, and civil society. Campaigners in both Nigeria and Ghana stated that the decision to create public registers for all companies, beyond extractives, was rooted in the countries' commitment to disclose beneficial owners of extractive companies through EITI. Finally, while international initiatives have been a useful focus for pushing this agenda, it would be remiss to omit the many campaigners in developing countries who have long been arguing that anonymous companies deprive their economies of vital resources.

ONGOING CHALLENGES

Data integrity and compliance

The implementation of the register has not been without its challenges. As Nienke Palstra, a campaigner for Global Witness, explained, the key challenge is that the data for beneficial owners is self-reported by companies and not verified. As a result, people can submit data that is invalid or that does not comply with the rules: for example, by putting a company based in a secrecy jurisdiction as their PSC. Examples of these cases—such as those referring to SLP compliance or impossibly young persons of significant control—are mentioned above.

What's to stop a hardened criminal from submitting information that is a lie? For instance, from submitting an alternate nominee as a PSC rather than the person who genuinely ultimately controls and benefits from the company? In short, nothing. However, a public register where people have to officially make a statement about the PSC of a company increases the risk of getting caught. As Taggart put it: "public registers increase the risk of lying, and it's hard to lie consistently."

Furthermore, according to Paul May, "Maintaining open registers of ownership with compulsory disclosure is critical even when the disclosure is inaccurate or incomplete as the provision of inaccurate data by an entity is itself considered evidence in an investigation."

COMPANIES HOUSE INFOGRAPHIC

3.5 million
companies registered at Companies House

500,000
new companies being incorporated every year

6
staff on the breaches team

1
One person prosecuted for filing false information

However, in order for these lies to be exposed, the data submitted must be properly validated and authenticated; this makes it more difficult, and risky, for people to submit wrong data.[32] Companies House introducing an alert if someone enters a birth date for the beneficial owner that is over 100 years ago is an example of making it more difficult to provide invalid data.
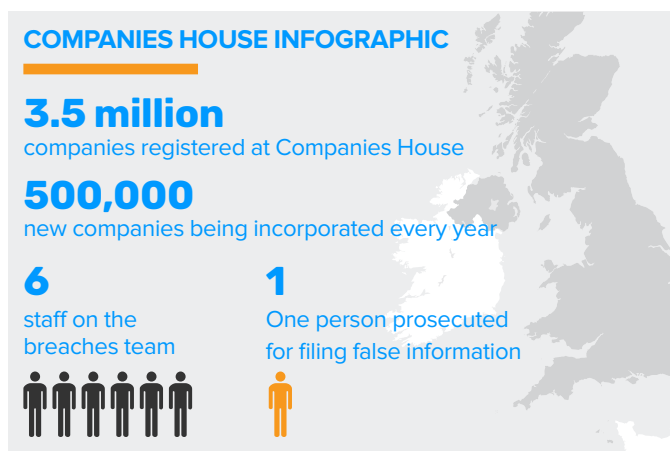
Indeed, Companies House shared that finding ways to improve the integrity of the data is one of their priorities, and one of the ways they do this is by following up on information provided by users of the register. In the data dive mentioned earlier, Global Witness shared with Companies House a list of companies that seemed to have errors in their data. Companies House then directly followed up with these companies to have that information rectified. Companies House is also facilitating public reporting of inaccuracies through the soft launch on the website of a reporting button. Currently, they are fielding about 100 genuine responses a day through this feature—about a third of these relate to information about PSCs and are sent to the integrity and enforcement team. This feature should be rolled out further, hopefully leading to an increasing number of responses.

Neither of these initiatives would have been possible without the registers being accessible to the public as open data. This is a crucial point; having the register public, and particularly having it accessible as open data, allows for the "many eyes" concept to play out: journalists, CSOs, and other users can help improve the integrity of the data by flagging inconsistencies and errors as they see them. As Palmer put it, "I'd rather a register that was open and unverified, than one which was closed and supposedly verified."

A briefing by Global Witness and Open Ownership in October 2017 made further recommendations to improve the verification of the register's data, such as asking beneficial owners to include proof of ID in their submission (as Denmark is currently doing for their register).[33] They are also calling—as Transparency International and The Herald have—for Companies House to be better equipped and empowered to identify and follow up on cases of dodgy data and non-compliance. More than 3.5 million companies are registered at Companies House, with 500,000 new companies being incorporated each year.[34] Meanwhile, the agency's breaches team comprises only six people, with 75 staff on the integrity and enforcement team.[35]

Only one person has ever been prosecuted for filing false information on the company register, and that was someone pointing out a loophole by purposefully assigning Members of Parliament (MPs) as shareholders of a company—including alerting them to the fact—in order to raise awareness of how easy it is to submit false information. Another infamous case relates to a shell company linked to a money laundering case in Italy, that had given as its address "street of the 40 Thieves" in the fictional town of 'Ali Babba.'

The question of verification and compliance is part of a wider debate about the UK's framework for incorporating and regulating companies and combatting company misuse. Who is tasked with investigating companies and investigating non-compliance? What

powers do they have? What mechanisms are in place to prevent illicit use of companies? The register and its data is potentially useful in helping tackle money laundering, but it is only one part of how the government combats these issues.

Maximizing the usefulness of the register will also require mechanisms for sharing information and acting on analysis. A 2017 report by Transparency International (TI) into how UK companies are used to launder wealth described many flaws with the UK's defense mechanisms against money laundering.[36] Quite damningly, TI found that "one in four firms authorized by Companies House to use electronic filing software to form companies en masse do not appear to be registered with a UK money laundering supervisor." It recommended an overhaul of the UK's anti-money laundering system and increasing controls over company formation, among other things.

Maintaining momentum and leadership
The OGP commitment on beneficial ownership transparency allowed the UK to position itself as a leader on the issue and increase its influence, particularly in the EU where the 4AMLD negotiations were taking place. According to a civil servant at BEIS, the fact that the UK was the country with the most experience on the issue allowed it to be influential in negotiations. It also gave the UK an early start in terms of transposing the EU Directive, for which the UK was one of only 11 countries to meet the deadline. However, following this, there has been a loss of momentum with regards to beneficial ownership transparency.

In its 2016–2018 NAP, the UK committed to creating a publicly available register for foreign companies who own property in the country or bid for central government contracts. This type of disclosure is crucial given the propensity for UK (and especially London) property to be used as assets for money laundering or stashing illicit funds. In 2016, the Home Affairs Committee said that London property was a key enabler in the estimated £100 billion laundered through the UK each year. However, progress on this front has been slow; transparency of beneficial ownership had been a key part of Prime Minister Cameron's agenda, but his successor, Theresa May, has unfortunately been less dedicated to the issue. Furthermore, the political turmoil of Brexit—as well as a snap general election followed by a hung parliament—has made it difficult to advance on these questions. In January 2018, the government announced a timetable to introduce primary legislation for this register in the summer of 2019, rather than the spring of 2018 as per the commitment. On January 17, the House of Lords defeated an amendment which would have obliged the government to introduce legislation within the year.

Another key area relates to Britain's overseas territories. In 2014, then-Prime Minister Cameron had urged Britain's overseas territories to create public registers of beneficial owners. However, following resistance from the territories, the government's ambitions then diminished and in April 2016, Territories Minister James Duggeridge confirmed that no further demands of the overseas territories and publicly available registers would be made.

All of this changed two years later, when in April 2018, the British parliament approved an amendment to the Sanctions and Anti-Money Laundering Bill, which obliges the overseas territories to create public registers by the end of 2020. This amendment, which ran contrary to the government line, had been introduced by a cross-party group led by Dame Margaret Hodge (Labour) and MP Andrew Mitchell (Conservative). They gained sufficient support for the amendment, including from rebels in the governing party, to push the government into approving it.

According to Baroness Stern, a cross bench member of the House of Lords, "Secrecy jurisdictions which help in the laundering of ill-gotten funds facilitate corruption. A number of these, such as the British Virgin Islands and the Cayman Islands, are British Overseas Territories, for which the UK has ultimate responsibility. It is therefore a great step forward that in May 2018 the British Parliament passed legislation requiring the Overseas Territories to establish registers of the beneficial owners of the companies registered in their jurisdictions and make these registers public no later than 31 December 2020".

CONCLUSION
From the Azerbaijani Laundromat case to the Paradise Papers, stories continue to emerge of British company vehicles being misused at the expense of citizens both in the UK and around the world, to the profit of criminals and a powerful elite. Shutting down corrupt activities will require a sustained and still more ambitious approach.

The fact that the UK government successfully established a public register of beneficial owners, and that it published the information as open data, was no small feat. The register has set a benchmark for a new standard of beneficial ownership transparency and helped spark the adoption of registers in other countries. The data is being widely used by stakeholders to monitor compliance, develop investigative leads, and as an asset for identifying beneficial ownership structures. Furthermore, there is some evidence suggesting that it may have made some company formations less attractive to would-be money launderers.

However, important challenges remain, notably involving compliance, the integrity of the data, and the capacity of Companies House to follow up on breaches and data errors. As well as addressing these issues, the UK government must maintain its momentum on beneficial ownership transparency. This includes completing its commitment to create a register of beneficial ownership for foreign companies that wish to buy property or bid on central projects in the UK. If tax scandals and the financial crisis provided the background to the UK's 2013 decision for a beneficial ownership register, then the Paradise Papers and the Skripal poisoning provided a similar backdrop regarding the MPs' vote to oblige BOTs to establish public registers. As long as stories continue to emerge about the deleterious impact of anonymous companies and offshore secrecy, new transparency milestones—once thought improbable—will become possible. ∎

United States

Open Police Data: Co-creating Solutions to Enhance Public Safety

Seren Pendleton-Knoll
Berkeley-Haas Center for
Responsible Business,
Associate Director

Aditya Khandekar
Lawrence Berkeley National
Lab, Senior Scientific
Engineering Associate

Tackling discriminatory practices

A STRAINED RELATIONSHIP

Frequent high profile police shootings of African American citizens, with no charges against the officers, culminated in nationwide protests in December 2014. With discriminatory policing becoming one of the most sensitive and challenging issues in the U.S., often dominating news media headlines and being the subject of high profile protests including by NFL players[37], finding workable solutions to improving police-community relations is an urgent priority for citizens[38]. In response to the 2014 protests, federal, state, and local governments and police departments set up task forces, advisory bodies, and legislation in order to increase transparency and accountability in police departments.

The largest of these task forces was the President's Task Force on 21st Century Policing. Created through an executive order signed by President Obama in December 2014, the task force was comprised of interdisciplinary experts who drafted a recommendations report for the 18,000 police departments in the United States. The main recommendation in the report is for law enforcement agencies to "make all department policies available for public review and regularly post on the department's website information about stops, summons, arrests, reported crime, and other law enforcement data aggregated by demographics[39]."

Traditionally, the availability of policing data depended primarily on the activism of diligent community members who compiled and gathered information from a variety of sources, especially news

clippings and local media. As public distrust of policing agencies simmered, there have been repeated calls for greater transparency of policing activities and public disclosure of information surrounding the use of force by law enforcement. To illustrate the problem, presently there is no central repository in the USA containing data on homicides or incidents of police violence, and there are no rules requiring law enforcement agencies to collect this information[40].

COMMITTING TO POLICE TRANSPARENCY

The United States was the founding member of Open Government Partnership in 2011. In its third national action plan released in October of 2015, the United States committed to "Build Safer and Stronger Communities with Police Open Data" in conjunction with the President's Task Force on 21st Century Policing.

The Task Force on 21st Century Policing resulted in the creation of the Open Police Data Initiative[41]: an online portal that links to law enforcement agency data and highlights various ways citizens are using this data. This initiative is a joint partnership between the Police Foundation and the Office of Community Oriented Policing Services (COPS Office) at the Department of Justice, and represents a stark improvement in access to policing data. The Police Foundation is a non-profit organization that has been working on policing reform through support from both public and private sources.

The theory of change underpinning this initiative is that the disclosure of data will bring long-term improvements to the ways in which law enforcement agencies interact with and positively impact their communities. Opening up data that is unprocessed and presented at the "incident" level allows members of civil society to analyze and answer their unique questions, explore and learn about shared problems, and become more informed about how law enforcement is responding to important community issues and trends[42]. Removing barriers to data access increases transparency particularly when the data could be sensitive or unflattering to the entities releasing it.

AGENCIES ADOPTING OPEN POLICE DATA

As of December 2017, the initiative had 137 law enforcement agencies participating, including major cities such as New York, Los Angeles and Detroit, representing 35 states in the country. Collectively these

agencies have released more than 200 datasets through the Open Police Data portal.

Data featured on the site includes: Stops, Citations, and Arrests; Use of Force; Workforce Demographics; Officer Involved Shootings; and Calls for Service. Of the 137 participating agencies, only 75 have as yet published data through the portal, while the remaining 62 have not submitted datasets. Out of the 75, California has the maximum participation with 12 agencies followed by Virginia (5), Indiana (4), Washington (4) and North Carolina (4).

12 different kinds of statistics are currently available on the Open Police Data portal (described in Table 1). While not all agencies publish all types of datasets, data on stops/citations/arrests is the most published dataset followed by data about incidents. An overview of the distribution of published datasets is shown in Figure 2.
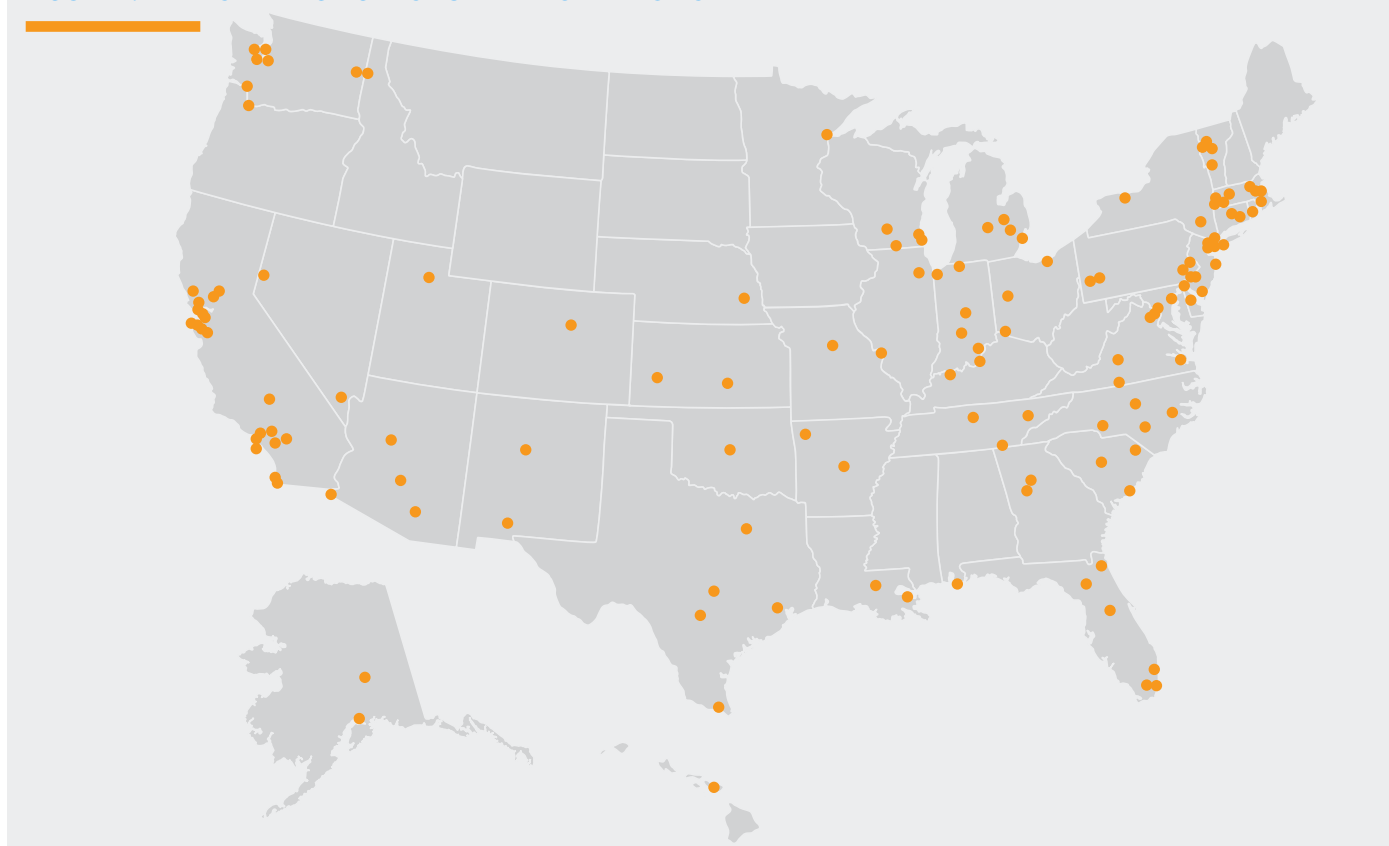
The Police Foundation, whose mission is to 'improve policing through innovation and science,' identifies the concrete benefits for police departments in opening their data. First, community analysis can yield important insights into policing and help the community understand what police departments do and provide opportunities for two-way engagement. Second, police departments can demonstrate transparency and increase legitimacy. Third, police departments can address broader community concerns through important public safety data, and help identify new tools and better

TABLE 1: TYPES OF DATA AVAILABLE

Stops/ Citations/ Arrests	Workforce Demographics	Accidents/ Crashes	Incidents
Complaints	Officer Involved Shootings	Community Engagement	Calls for Service
Assaults on Officers	Use of Force	Training	Miscellaneous

As public distrust of policing agencies simmered, there have been repeated calls for greater transparency of policing activities and public disclosure of information surrounding the use of force by law enforcement.

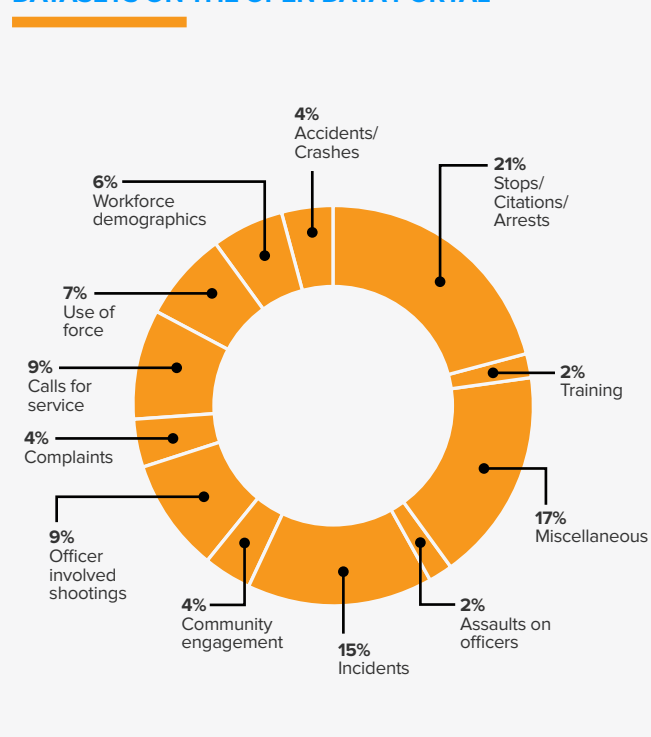## FIGURE 1: PARTICIPATING AGENCIES IN THE OPEN POLICE DATA INITIATIVE

processes to improve public safety[43].

While the recommendations in the President's Task Force on 21st Century Policing are voluntary, legislation on opening police data to the public has either been or is being passed in states across the nation including in Connecticut, North Carolina, Maryland, Ohio, California, Washington, Nebraska, Illinois, and Missouri. Aside from proactive and voluntary disclosure of policing data, a number of states and municipalities have also been mandated by courts and legislatures to collect data to study policing bias.

Given the broad public interest surrounding the issue, and with the growth of agencies adopting an open police data approach, the Police Foundation launched a call in January 2018 for agencies to also start releasing hate crime data. Hate crimes are criminal offenses where perpetrators act to victimize based on a person/group's perceived identity, particularly relating to race, sexuality, and gender. According to Chief Will Johnson, Chair of the Human and Civil Rights Committee at the International Association of Chiefs of Police (IACP), "hate crimes and hate incidents are heinous acts that demand immediate attention, response, and resolution whenever possible"[44]. As of May 2018, 54 agencies started participating in disclosing hate crime data, and initial successes are significant, including agencies posting incidents within days of occurring, as opposed to posting in the federal system, which takes years to publish.

FIGURE 2: DISTRIBUTION OF AVAILABLE DATASETS ON THE OPEN DATA PORTAL

- **4%** Accidents/Crashes
- **6%** Workforce demographics
- **21%** Stops/Citations/Arrests
- **7%** Use of force
- **2%** Training
- **9%** Calls for service
- **17%** Miscellaneous
- **4%** Complaints
- **9%** Officer involved shootings
- **4%** Community engagement
- **15%** Incidents
- **2%** Assaults on officers

STATE LEVEL ADOPTION - CALIFORNIA

For a number of policing agencies, data disclosure requirements are usually driven by state-level legislation. Early adopters, such as North Carolina, have already been able to use policing data to improve policing practices. California Governor Jerry Brown signed into law Assembly Bill 953 - Law enforcement: racial profiling in October 2015[45]. The law, among other provisions, stipulates that law enforcement agencies in California must report annually to the Attorney General. It is also required to make stop data public, including the time, date, location, reason, actions taking, and result of the stop, as well as the perceived race or ethnicity, gender, and approximate age of the person stopped. Agencies larger than 1,000 officers must be in compliance by 1 April 2019, with all agencies in California needing to be compliant by 1 April 2023.

CITY LEVEL ADOPTION - SAN FRANCISCO, CA

In the absence of enforceable federal and state mandates, where many police agencies are still averse to public scrutiny, committing to opening data, improving policing practices and addressing community relations challenges must be driven by advocacy groups, local government actors and police agencies. "In the wake of revelations that 14 San Francisco Police Department (SFPD) officers had exchanged numerous racist and homophobic text messages"[46] in May of 2015, the San Francisco District Attorney set up the Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement as an advisory body.

The Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement worked on their investigation and report from July 2015–July 2016. When the panel started, publicly

CHANGING DISTRICT ATTORNEY

After Attorney Mark Peterson pleaded guilty to felony perjury, Diana Becton, who was rated by The Contra Costa Racial Justice Coalition most "in-line" with community values, became District Attorney

DIANA BECTON

MARK PETERSON

available data was extremely limited, and panel members gathered additional data through public records requests and courtesy requests. Though it was an official government body, they were met with resistance and delays in their data requests. In October 2016, The U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office) released its initial assessment of the San Francisco Police Department (SFPD) as part of their collaborative review process. This review was also spurred on by public outrage after an officer-involved shooting. "Mayor Ed Lee and former Police Chief Greg Suhr requested assistance from the Justice Department to conduct a thorough review of the police department's policies and practices"[47]. Yet again, a major finding of this report was the lack of data and communicating the data effectively with the public.

The panel released a subsequent report in July 2016. Its findings aligned with the recommendations of the President's Task Force on 21st Century Policing report: a need for greater transparency and oversight in order to rebuild trust with the community. Following the COPS report and the Blue Ribbon Report, the SFPD joined the White House Police Data Initiative and began publicly publishing data, as well as the Police Commission publishing more timely reports[48]. With one of the main goals of the Blue Ribbon Panel to increase transparency, the initial steps by the SFPD have proved to be promising.
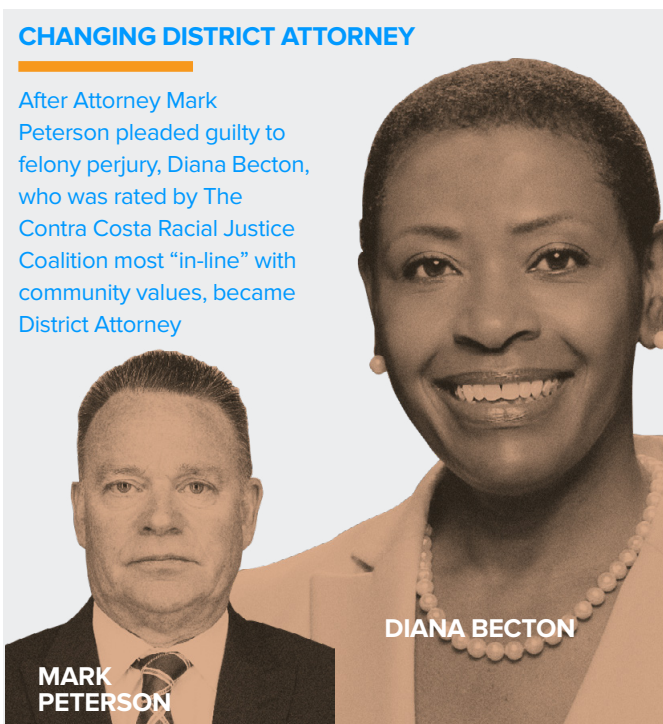
CHANGING VOTER PREFERENCES - RICHMOND, CA

Richmond Police Department piloted a soft launch of their data in March of 2016, featuring stop data, police calls for service, firearm discharges, traffic citations, detentions, and more. The Police Department is proud to be in-line with the Task Force on 21st Century Policing[49], and their site features charts and graphs that are made with the open data, including filters for race[50]. While still in a soft launch phase, community members have already utilized the data in order to push forward more progressive values.

On 14 June 2017, Contra Costa County District Attorney Mark Peterson pleaded guilty to felony perjury and resigned his office. The resignation created a vacancy that the County Board of Supervisors needed to fill, as his term did not expire until 7 January 2019.[51]

In order to influence the Board of Supervisors, community groups held forums, and drafted literature on the various candidates. The Contra Costa Racial Justice Coalition, a community advocacy group, utilized the Richmond Police Department data to highlight racial disparities in the county, and force District Attorney candidates to address these in their platforms[52]. The focus on this issue brought to light quickly which of the candidates would be focusing on this during their interim appointment as District Attorney, and resulted in the appointment of Diana Becton, who was rated by The Contra Costa Racial Justice Coalition and other community partners to be the most "in-line" with community values[53]. The public access to police data was pivotal in highlighting malpractice, changing the narrative, and ultimately pushing forward a candidate that best represented the community and their interests.

CHANGING POLICING PRACTICES - NORTH CAROLINA

As an early adopter, the state of North Carolina passed Senate Bill 76 in April 1999, which required traffic stop statistics be collected for state law enforcement officers[54]. The requirement was later expanded to include local law enforcement officers employed by all 100 county Sheriffs' Offices and almost all police departments in 2002. Since then, a significant repository of data has been collected on stop statistics which has been compiled into a searchable database[55] by a non-governmental organization.

Analysis of this extremely detailed data by The New York Times showed that there was wide racial differences in the number of individuals being pulled over in traffic stops. They found that officers were more likely to stop black drivers for no discernible reason, and they were more likely use force if the driver was black even in the absence of physical resistance[56]. Analysis of traffic stop data in Fayetteville, NC shows the impact of data on changing police practices. Based on the analysis, officers were ordered to focus on moving violations, like ignoring traffic signs, instead of investigatory stops based on suspicion, which has led to less disparity in the proportion of black drivers being stopped as compared to white drivers. The data has also been used by several North Carolina cities and jurisdictions in multiple cases over the years to improve transparency, accountability, and policing practices of law enforcement agencies particularly over the past 7 years.

INCREASING USE OF POLICE DATA

Analysis by the Sunlight Foundation found that of the 21,000 government held datasets available, Police and Crime is the most popular dataset[57], indicating the high demand for such information. Access to open police data across the United States has led to everyday citizens analyzing and sharing findings nationally. Key examples of these can be found on the Open Police Data Initiative Twitter account (@PoliceOpenData started in March 2017), which includes citizens sharing the ways they've been utilizing the data. Many of the examples include uses that could benefit the police department, such as hot spots for calls for services and peak times for calls[58], as well as how cities can use police and EMS dispatch data to reveal when and where overdoses occur to create an effective early warning system for overdose spikes, identify chronic hotspots to target interventions, and assess performance across units.[59]

Police agencies could also use the data to better justify their need for resources, particularly as there is often an expectation of them to do more with less. Innovative ways to incentivize the public utilizing the data have also occurred, with initiatives such as the Police Data Challenge, where the Open Police Data Initiative is partnering with the American Statistical Association to host a competition for high school and college students to "analyze complex data sets from the Baltimore, Cincinnati and Seattle Police Departments, and recommend innovative solutions to enhance public safety."[60]

THE PROMISE OF IMPROVED COMMUNITY RELATIONS AND PUBLIC SAFETY

When the Open Police Data Initiative launched in 2016, law enforcement agencies were skeptical of the value in truly open data. When data sets have been released in the past, it was typically already analyzed, so there was confusion about why agencies should release their data and let the public analyze it. However, as more and more agencies took this leap of faith, they quickly realized the benefit of the public being able to access the data. For example, when the media did incorrect analysis, the public was able to investigate and prove the errors.[61] The examples in this study demonstrate some success of these early uses of open police data. Inherent concerns arise, however, in providing open access to data, while still protecting the identity of individuals. The Police Foundation is providing input to agencies on how to do this correctly, and even providing technical assistance to some departments. Understandably, the less data cleaning an agency needs to do, the more willing they are to adopt open data standards.

Adoption rates for opening police data are still very low. With approximately 18,000 agencies in the U.S., much more needs to be done to encourage police departments across the country to address this crisis in community relations. Agencies must proactively release data and engage communities to improve public safety, policing practices, and community relations. A number of viable models driven by states, municipalities, and even policing agencies themselves could be adopted in pursuit of enhancing transparency and accountability. With the wrapping up of the President's Task Force on 21st Century Policing, and waning interest in the executive branch under the Trump administration, the COPS office and the Police Foundation should expand engagement and work more closely with other key government and civil society actors to increase uptake of data transparency standards.

Coordinated campaigns by progressive actors in jurisdictions with higher instances of malpractice will help in creating the necessary pressure for adoption. Continued leverage of social media tools, such as Twitter, to highlight uses of the data, successes, and potential applications will help expand engagement past the communities already utilizing it. Promotion from police departments for the data that they have made publicly available to the community continues to be needed to increase awareness that such data exists.

Finally, partnerships between the Open Police Data Initiative and police departments, with schools and universities, libraries, and other community-based centers will not only increase awareness of the data, but allow for innovation in its utilization and impact the communities. The next big question the foundation wants to answer is: is this building trust with communities? To answer this, they have expressed a need for greater technical capacities, and have applied for grant funding to research this question.[62] ■

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