



INSIGHT 2

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# Stakeholder Participation:

MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change





**The Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity)** aims to reduce the harms and human rights abuses caused or exacerbated by the private sector. For the past decade, MSI Integrity has investigated whether, when and how multi-stakeholder initiatives protect and promote human rights. The culmination of this research is now available in our report, *Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance*.

The full report contains six insights from experience with, and research into, international standard-setting multi-stakeholder initiatives. It also contains key conclusions from these insights, and perspectives on a way forward for improving the protection of human rights against corporate-related abuses.

This is an excerpt of the full report, focusing on Insight 2. The six insights are:

**Insight 1: Influence** — MSIs have been influential as human rights tools, but that influence, along with their credibility, is waning.

**Insight 2: Stakeholder Participation** — MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change.

**Insight 3: Standards & Scope** — Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed.

**Insight 4: Monitoring & Compliance** — MSIs employ inadequate methods to detect human rights abuses and uphold standards.

**Insight 5: Remedy** — MSIs are not designed to provide rights holders with access to effective remedy.

**Insight 6: Impact** — There is little evidence that MSIs are meaningfully protecting rights holders or closing governance gaps.

Read the full report to find out more about the other insights, our key conclusions, and the background and knowledge base that informs this Insight and our wider analysis. The full report is available at [www.msi-integrity.org/not-fit-for-purpose/](http://www.msi-integrity.org/not-fit-for-purpose/).

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MSI Integrity is now embarking on a new direction: applying lessons learned from the grand experiment in multi-stakeholderism to promote business models that center workers and communities in their governance and ownership. See our new work: [Beyond Corporations](#).

Find out about our new direction at [www.msi-integrity.org/beyond-corporations/](http://www.msi-integrity.org/beyond-corporations/)

Look out for our upcoming blog series, “Rethinking MSIs.”

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## Stakeholder Participation:

MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change

**In this chapter:** This chapter examines rights holders' and civil society organizations' (CSOs) participation in the governance of MSIs, and how structural issues can impact their involvement and influence.

**Summary of our insights:** The perceived legitimacy of MSIs stems from the fact that they include stakeholders—civil society or rights holders—who might act as watchdogs over corporations and drive pro-human rights reforms. However, in practice, MSIs generally exclude rights holders from governance and implementation processes, relying instead on CSOs to counterbalance corporate power. Yet, CSOs are ill-equipped to challenge corporate power within MSI governance due, in part, to their resource constraints, broad diversity, and the fact that they generally need to win the support of corporations to make key decisions. This is exacerbated by the process-oriented nature of MSIs, which favors the status quo and absorbs CSOs' limited resources. Despite the rhetoric of multi-stakeholderism, in reality, MSIs entrench power in favor of corporations—the entities they seek to regulate. MSIs are thus poorly situated to fulfill “regulatory” functions, such as determining whether to expel non-complying members or fix weaknesses in accountability mechanisms.

### Key findings and observations:

- **MSIs have largely excluded rights holders from their governing bodies and implementation. In particular:**
  - Only 13% of MSIs include affected populations in their governing bodies, and none have a majority of rights holders on their boards.
  - The monitoring, compliance, and remedial mechanisms established by MSIs are not centered on rights holders, and the few MSIs that measure their impacts on rights holders do so through top-down studies that do not empower rights holders in their design or implementation.
  - CSOs participating in MSIs are not equipped or resourced to act as proxies for rights holders, and their presence does not necessarily mean that those most affected by the relevant issue are represented.
- **MSIs are premised on CSOs' ability to perform oversight of their operations. However, MSI decision-making rules and practices, along with differences in resources and capacity between CSOs and other stakeholders, can compromise CSOs' engagement as equal and effective partners. In particular:**
  - Multi-stakeholder decision-making rules can favor the status quo by requiring CSOs and their pro-reform allies to garner majority or consensus support for major pro-human rights reforms.
  - “Civil society” is a broad constituency often without any clearly defined boundaries. The different backgrounds, agendas, and interests of CSOs can require them to expend considerable effort to arrive at a common strategy and approach within the constituency.
  - MSIs are highly technocratic, and effective participation in their governance requires significant financial and technical resources, as well as investments of time. Yet CSOs—particularly those from the Global South—are often poorly resourced compared to their corporate or government constituents. MSIs thus risk reproducing pre-existing Global North/South and corporate/community power imbalances.
  - The process-oriented nature of MSIs also opens them up to delays by those resisting change, which further depletes limited CSO resources and may stymie efforts for reform.

## Background: Context and Approach

MSIs' distinguishing feature is that they include CSOs—and sometimes rights holders—in governance and implementation. Rights holders and CSOs are the two stakeholder groups charged with advocating for human rights reforms and wider societal outcomes.<sup>1</sup> Effective civil society participation can provide expertise and research that are independent from industry perspectives, and can serve a “watchdog” role to investigate, negotiate, and advocate for robust human rights outcomes. Rights holders are directly and personally affected by MSIs and thus, as a group, hold critical information on the relevant industry and local context.<sup>2</sup> The inclusion of CSOs or rights holders has thus led MSIs to be perceived by external commentators as more legitimate and credible than business-driven initiatives.<sup>3</sup>

However, this assumes that these stakeholders are able to meaningfully influence MSI practices and outcomes.<sup>4</sup> Yet, rights holders are drastically underrepresented in MSI governance bodies and wider decision-making processes. Their CSO allies often face capacity and power imbalances within MSIs, which undermine the quality of their participation. In this context, critics of MSIs have noted that such asymmetrical power arrangements are undemocratic, and can lead to corporate capture and the exclusion of rights holders and CSOs from equal opportunities to shape MSI agendas.<sup>5</sup>

Understanding the nature of power and governance dynamics within any organization, let alone across a field of organizations, is an inherently complex and often highly qualitative undertaking. This chapter, more than the others in the report, therefore relies more heavily on generalized observations and broad experiences of MSI governance and stakeholder participation over the past decade, as derived from our research, interviews, observations, and informal conversations with MSI participants and staff over the last decade. Where appropriate, we draw on our previous research on the composition of the governing bodies of the 40 MSIs included in our MSI Database; our previous analysis of governance practices of multi-stakeholder groups in 15 countries implementing the Extractive Industries Transparency Initiative (EITI), supplemented by a case study on EITI; external studies into MSIs; as well as from our interviews and workshops with rights holders in Cameroon, the Philippines, and Nigeria regarding their experiences with MSIs (Fairtrade International, the Fair Labor Association, the Forest Stewardship Council, UTZ, the Voluntary Principles on Security and Human Rights, and Worldwide Responsible Accredited Production): see **Knowledge Base**.

### 1 Rights holders are largely absent from MSI governance and implementation, even though they are the only group directly and personally affected

Rights holders are the individuals whose lives, livelihoods, or rights are affected by the business activities that an MSI seeks to address, such as farmers, factory workers, or forest dwellers (see **Defining the Key Concepts**).<sup>6</sup> Nearly all of the 40 MSIs have a mission statement that refers to the benefits to rights holders, either by direct reference or by invoking human rights or social impact.<sup>7</sup> Fairtrade International's mission, for example, commits the initiative to “empower producers to combat poverty, strengthen their position and take more control over their lives.”<sup>8</sup> The Equitable Food Initiative aims to “improve the lives of farm workers.”<sup>9</sup> Similarly, the Fair Labor Association's mission is “to promote and protect workers' rights and to improve working conditions globally,” while the Ethical Trading Initiative “exists to improve working conditions in global supply chains.”<sup>10</sup> Although some MSIs' connection to human rights may be less explicit, or the identification of their rights holders more difficult than for others, all the MSIs in this report have standards that address or affect human rights (see **Background**). Thus, they all affect rights holders in some way.

Yet, despite their missions and intended impacts, MSIs have not facilitated rights holder participation in their governance and implementation, as this section discusses. This means MSIs are making decisions and operating without the perspective of the stakeholders who have immediate insight into whether an MSI's proposed interventions or decisions would be trusted or effective from the point of view of rights holders. This significantly impairs the ability of MSIs to protect human rights.

### **A. Rights holders are largely excluded from MSIs' decision-making bodies and important implementation processes**

Our experience with and research on MSIs show that they have largely excluded rights holders from their decision-making and key implementation processes. This is a trend we have observed consistently since we first began our research into MSIs, and which no single MSI has meaningfully or adequately addressed. Examples of this cross-cutting failure to center rights holders in the governance or core operation of MSIs include:

*“... the exclusion of rights holders undermines the ability of MSIs to effectively close governance gaps ...”*

- Only 13% of the MSIs in our MSI Database include representatives of rights holders in their governing bodies.<sup>11</sup> These tend to be lone voices—usually individual union or worker representatives—on a body otherwise filled with multiple seats for industry and civil society. No MSIs have a majority of rights holders on its board.
- Ongoing monitoring or auditing systems in MSIs are top-down and not designed in a way that engenders the trust of rights holders to overcome the risks of reporting abuse to third-party auditors. Of the 10 oldest and 10 newest MSIs, none have a system with requirements to overcome the barriers and risks for rights holders to report abuses (see **Insight 4: Monitoring and Compliance**).
- Almost a third of MSIs in our MSI Database do not have a process that enables rights holders to directly report alleged abuses of the MSI's standards.<sup>12</sup> Those MSIs that do have complaint procedures generally have systems that pose multiple barriers to rights holders who seek to report abuse, and are thus not easily accessible to them. Nearly all MSIs with a complaint mechanism in place do not require rights holder consultation regarding appropriate remedies (see **Insight 5: Remedy**).
- Few MSIs directly assess their impacts on rights holders—only five out of the 20 oldest MSIs—and those that do conduct top-down studies that do not empower rights holders in their design or implementation (see **Insight 6: Impact**).
- While 55% of the MSIs in our MSI Database have processes that engage rights holders outside of formal decision-making,<sup>13</sup> this engagement is generally not comprehensive or systematic, nor is it by and large part of the core implementation activities of an MSI, as outlined in the above bullets. For example, engagement with rights holders might be limited to offering them local implementation workshops or seeking public input on the revision of standards, reviews of the MSI, or other feedback mechanisms. MSIs have no obligation or commitment to incorporate such rights holder involvement, and when they do, the processes are almost all controlled and directed by the MSI.

We have also generally observed that there is no widely accepted practice or norm of including rights holders as partners in the design and development of MSIs. While there are sometimes efforts to consult or permit rights holders to provide input during reviews or revisions of some components of MSIs, from the outset, rights holders are not treated as co-designers, co-governors, or equals in MSI processes.<sup>14</sup>

The exclusion of rights holders ignores the strong desire we have heard throughout our work from affected communities and individuals—particularly those who are especially vulnerable to abuse or who have previously experienced abuses—to have a say in the decisions that affect their lives and livelihoods. An MSI’s decisions and outcomes impact the lives of the affected population above all other groups. It is their human rights, living conditions, or lives that the MSI seeks to protect or improve. As detailed in the case study in Spotlight 2.1, our interviews and workshops with rights holders in Cameroon, Nigeria, and the Philippines underscore that rights holders desire to know their rights and participate in their protection.

Importantly, the exclusion of rights holders undermines the ability of MSIs to effectively close governance gaps, and thus affects the substantive rights outcomes and rights protections of MSIs. Rights holders carry information on the local context and the relevant industry, and are crucial for designing and implementing MSI mechanisms and processes that are trusted, used, and effective at the local level. Ultimately, rights holders know the human rights issues that are of greatest importance to them, and the types of interventions that they will trust. Mechanisms and processes designed by those directly impacted are likely to have different features and considerations than mechanisms designed by international civil society, multinational corporations, governments, or those without first-hand knowledge of local experiences, cultures, geography, or other aspects unique to the areas where an MSI intends to operate. This is why, for example, co-design of grievance mechanisms is considered good practice, as it can result in a system that is more likely to be trusted and therefore used by rights holders as a whistle-blowing agent against a government or company actor.<sup>15</sup> By comparison, if affected populations are excluded from these processes, they may remain unaware of the MSI and not use the protections and mechanisms that MSIs offer in their communities or workplaces. Thus, abuses may persist undetected by MSIs.

Furthermore, when rights holders are directly engaged in an MSI, they can report back on whether they have seen reduced human rights violations or improved transparency within their communities, as well as participate in learning and dialogue with companies, governments, or other MSI members. In this way, involving affected populations provides feedback to MSIs to gauge and learn from on-the-ground experiences. This is particularly important in light of the many challenges MSIs face in measuring their impact, which are examined further in **Insight 6: Impact**. Without rights holders’ input about whether abuses are continuing, MSIs risk whitewashing corporate (or sometimes government) behavior.

Finally, from a normative perspective, rights holders ought to have a voice in the processes that will affect them, rather than have these issues decided by civil society, government, and industry members who may have only limited, if any, understanding of the rights holders’ desires and priorities. Furthermore, if a community or group of rights holders have already experienced losses, harms, or rights abuses linked to the industry or issues covered by the MSI, treating those harmed populations as equal stakeholders in decision-making within the MSI may also help to address or remediate the disempowerment associated with the prior losses or abuses.

We recognize it can be challenging to create meaningful opportunities for rights holder involvement and engagement in MSI governance and design. MSIs wishing to involve rights holders need to ensure that its governance is legitimate, accountable, and representative of the diversity of rights holder perspectives. MSIs must also develop mechanisms that overcome power imbalances to ensure that membership for rights holders is meaningful, rather than symbolic or tokenistic. This requires overcoming barriers with respect to financial resources and rights holders’ potential lack of familiarity with the languages, politics, and operations of global governance initiatives.

These challenges are not insurmountable, however. As discussed in **Insight 1: Influence**, Worker-driven Social Responsibility initiatives are examples of alternative systems to MSIs, that were designed and governed by and with rights holders—key factors to which the initiatives attribute their success—demonstrating the feasibility of co-design or co-governance approaches.

### **SPOTLIGHT 2.1. Rights Holder Voices: Desire to know their rights and participate in their protection**

Our interviews with rights holders in Cameroon and the Philippines explored their interactions with the MSIs that impact them. Many interviewees indicated little or no knowledge of the relevant MSI, and most indicated a strong desire to share information directly with MSIs or their member companies. For example, our interviews with indigenous villagers residing near a forest concession and workers at factories and farms included the following observations:

*We want to be involved in how to address rules and regulations . . . Unions and workers want to participate in decisions and have the company consult with workers about them.*<sup>16</sup>

*We want to improve our conditions of living. But our fear is that we are not always considered, and the exploitation disturbs our natural way of living. And these decisions are always taken without us – we are never consulted.*<sup>17</sup>

*They never told workers about fundamental rights. . . . The company's rules are very shady. I was never given a copy of regulations.*<sup>18</sup>

*They didn't explain the rules [to workers] that the factory needed to follow to become accredited.*<sup>19</sup>

*Maybe it would help if I could tell the buyer myself if the company was complying. Maybe we could gather evidence that they are not complying, photos, etc. and submit it online.*<sup>20</sup>

*We would definitely want to talk to the companies and local authorities. This is exactly what the community wants.*<sup>21</sup>

*We want that the company come here. . . . We want to always take part in the discussion, and that once the company is operating, that someone is available in the village to monitor the process. Ideal is not for just one person to go to the company and discuss, the company should come to the village and discuss with everyone.*<sup>22</sup>

*When [the MSI] wants to talk, it should avoid the bureaucratic system of communicating through the cooperative. It should come straight to farmers. Tell them standards and buy from them. Ask them, 'are you happy with the price for this cocoa?' and allow the common man to speak.*<sup>23</sup>

Additionally, during a workshop we conducted with rights holders in Nigeria, participants identified several strategies that MSIs could use to better communicate with rights holders, including: creating and distributing MSI-specific posters summarizing the rights protected and how to file a complaint, implementing “each-one-teach-one” community awareness or training programs, and reaching out to community radio stations or communicating over social media.<sup>24</sup>

Participants also suggested various ideas for how MSIs might facilitate receipt of information from rights holders, including the establishment of local, community-based monitoring teams, a complaints-filing hotline, or partnerships with local CSOs who might be able to file complaints on their behalf.<sup>25</sup>

## B. Rights holder perspectives are not always channeled through CSO participation

In our experience, MSI staff and members generally assume or perceive that the role of CSOs is to advocate for and represent right holders' interests. However, while CSOs that participate in MSIs generally have a mandate to address the issues that adversely affect rights holders—and they play a critical role in MSIs to that end—they are not a proxy for rights holders and their presence does not necessarily mean that those most affected by the relevant issues are represented.<sup>26</sup> While CSOs in MSIs may have a mandate to advocate for human rights, few would claim to represent rights holders or to have the resourcing or internal structures to seek rights holder input.

As discussed further in this chapter, “civil society” encompasses a broad and diverse clustering of stakeholders, including all formal or informal organizations that have a presence in public life but who are neither for-profit nor part of the state apparatus.<sup>27</sup> This can include not just advocacy groups, but also researchers, technical experts, academics, journalists, and others who are not directly impacted by the issues that an MSI seeks to address.

*“... researchers have pointed out that large Global North CSOs ‘tend to be consistently over-represented in MSIs, while smaller groups representing minority concerns and interests from the developing world are systematically under-represented.’”*

In our experience, most CSOs in MSIs—particularly those heavily involved in multi-stakeholder governance—do not have direct links or connections to rights holders, especially those rights holders in the Global South who are often the intended beneficiaries of MSIs' efforts to ensure more responsible corporate conduct. Rather, as explored more in the Part 2 of this chapter, researchers have pointed out that large Global North CSOs “tend to be consistently over-represented in MSIs, while smaller groups representing minority concerns and interests from the developing world are systematically under-represented.”<sup>28</sup>

At times, CSOs in an MSI may conduct important research into community conditions and views on specific issues, or—if an MSI has community or rights holder representation—they may also play a critical role in amplifying and advocating for the rights holders' perspectives.<sup>29</sup> However, while CSOs offer important skills and play an important role in MSIs, unless they have an explicit mandate to represent their views and have a method for obtaining those views—such as a community-based organization with direct ties to rights holders—their inclusion should not be viewed as representative of rights holders perspectives. Thus, because most CSOs are neither structurally situated nor sufficiently resourced to represent the views of rights holders, and few MSIs have direct rights holder representation, most MSIs fail to provide rights holders with an effective voice within their initiative.

### 2 Governance rules and structural power dynamics favor the status quo and undermine CSOs' ability to affect change

CSOs are generally charged with the “watchdog” role in MSIs and, in our observation, are the stakeholder group most consistently committed to ensuring rigorous human rights and accountability outcomes. Thus, impediments to CSO capacity and the ability to participate can significantly impair both the effectiveness of MSIs from a human rights perspective, and the perceived legitimacy of MSIs (see the discussion of the centrality of CSO engagement to MSI legitimacy in **Insight 1: Influence**). By comparison, we have observed that companies generally tend to prefer the status quo or incremental change, perhaps because significant reforms could result in costly or inconvenient changes that might undermine their profit-maximizing obligations. Thus, even though some of the concerns raised in this chapter apply to other constituencies, their specific effect on CSOs is particularly salient from a human rights perspective. This is not to suggest that companies (or governments) necessarily oppose

human rights protections or reforms—some individual companies or governments have been staunch advocates for reform within MSIs—but rather to explain why this section focuses narrowly on how MSIs empower or inhibit the participation of CSOs.

Nearly all of the MSIs in our MSI Database include both industry and civil society representatives in their primary decision-making bodies.<sup>30</sup> However, CSO representation does not necessarily ensure meaningful CSO *participation* in MSIs. The following discussion outlines how MSIs' decision-making rules and internal power dynamics often preserve the status quo in favor of corporations, while undermining the ability of CSOs to participate and drive human rights reform. As these are often quite conceptual ideas, we have included a case study in Spotlight 2.2 on EITI, which draws together all the observations outlined in this chapter and demonstrates that, even in an MSI that has significant resourcing and clear efforts to ensure effective CSO participation, there are major structural impediments that inhibit a CSO's ability to effectively drive change. The case study illustrates how the various power differentials, internal culture, and other qualitative aspects of decision-making affect the ability of CSOs to effectively govern in an MSI or to improve its capacity to protect human rights.

### **A. Multi-stakeholder decision-making rules favor preserving the status quo, particularly with respect to contested or difficult human rights issues**

It is evident that multi-stakeholder decision-making rules favor the status quo as a result of their design. The primary decision-making bodies of all the MSIs in our MSI Database, which are generally structured as boards or steering committees, are governed either by consensus or majority vote decision-making. This means that for an MSI to adopt a new policy or make other important decisions, a significant number of the board or committee members—if not all the members—need to support the motion. In this sense, MSIs' decision-making rules put a particular burden on civil society or other pro-reform actors to persuade or convince other stakeholders to support motions for reform, or else the status quo remains. Unfortunately, as the remainder of this report demonstrates, few MSIs were initially created—or have since developed—with robust monitoring, compliance, or remedial frameworks, and thus the status quo is often fairly weak from a rights protection perspective. This creates structural obstacles to achieving any reforms, particularly pro-human rights reforms.

This is not to say that change and reform in an MSI cannot or has not happened, or that actors from non-CSO constituencies never support reforms. We recognize that MSIs are dynamic and ever-evolving, and reviews and revisions to standards and oversight systems are a well-accepted good practice in MSIs.<sup>31</sup> Indeed, much MSI governance is not contested or adversarial, and we have often been told by participants that the collaborative nature of MSIs and the areas of common ground between stakeholders are what help generate some of their positive effects: trust, learning, and relationship-building. However, we have observed that proposals that would significantly improve the human rights accountability measures in MSIs are often deeply contested, such that reaching agreement among stakeholders can be extremely resource-intensive and slow. This is particularly true if such changes will be costly or risky for corporations or governments to implement, or if changes might result in the disqualification of members, a situation we explore in **Insight 4: Monitoring and Compliance**.

That multi-stakeholder governance creates a structural bias against major reforms that could lead to stronger human rights protections was acknowledged in a recent evaluation commissioned by an MSI, the Ethical Trading Initiative, into whether it has delivered on its mission and theory of change.<sup>32</sup> In particular, the evaluation found that while the initiative's members acknowledged that corporate purchasing practices and weak trade unions were key areas to address in efforts to produce meaningful improvement in working conditions (see **Insight 3: Standards and Scope**), the MSI had not adopted an approach that adequately addresses these issues. In this context, it noted that the initiative's "tripartite nature is at once its greatest strength and its key weakness", as it threatens to forestall "meaningful action" because it necessarily entails conflicting interests and objectives between members.<sup>33</sup> The

evaluation noted that a key challenge for the initiative if it wants to achieve more impact is to “transform this latent conflict of interests into a confluence of interests and action.”<sup>34</sup> However, it did not provide any guidance on how this could be done.

We have noticed that minority representation of CSOs (or rights holders) in MSI governing bodies can exacerbate the tendency of MSIs to broadly support the status quo, as it becomes the burden of individual representatives to win the support of the other constituencies. In our previous research on MSI governance, we found that most MSIs do not have equal representation among stakeholders in their primary decision-making bodies.<sup>35</sup> While a similar number of MSIs have CSOs as their largest constituency in their decision-making body (42% of MSIs) as those dominated by industry (37% of MSIs), in the industry-heavy MSIs, the representational imbalance is often significant. For example, at the most extreme end, three MSIs in our MSI Database have industry representatives exceeding the number of stakeholders from any other group by a ratio of 4:1 or greater.<sup>36</sup> Although some MSIs try to address this type of imbalance by using qualified or balanced decision-making processes, such as requiring two-thirds of each stakeholder group to support a decision whereby each group is given equal decision-making power, those three initiatives did not have any such measures.

## **B. The diffuse nature and lack of accountability in the “civil society” constituency undermine its ability to be an effective “watchdog” or agent of change**

In addition to the inherent bias in MSI governance towards the status quo, “civil society” itself has an inherent disadvantage in fulfilling its watchdog or pro-reform role: it encompasses a wide constituency without any clearly defined boundary. While this rich diversity can be an asset in many ways, it can also mean that CSOs, as a stakeholder group, do not have a set of common interests or unified strategy for reform. Furthermore, the constituency may not be appropriately represented by CSO participants that have the skills, resources, or capacity to drive human rights reform. By comparison, while industry is also diverse in its representation and may have differing agendas or interests, it shares a basic commonality in that all actors need to ensure they take actions that preserve profit and will be approved by their board or management.

Depending on the MSI, civil society representatives can range from academics to journalists; community-based organizations to international non-governmental organizations; policy experts to campaigners; advocates for a particular issue or demographic to broad industry watchdog groups. The different backgrounds, agendas, and interests of CSOs can hamper the constituency, forcing them to expend considerable effort to arrive at a common strategy and approach.<sup>37</sup> Stakeholders have frequently reported to us that coordinating as a constituency is taxing, and failure to arrive at an agreement on positions not only means that the status quo remains, but that ultimately it can erode faith in the ability of the constituency to achieve major reforms. This is explored further in the case study in Spotlight 2.2.

Critical to CSO effectiveness is that they are independent from other MSI stakeholder groups, such that they are free to voice their perspectives. While some MSIs have specific safeguards about this in their governance rules, such as regulating or limiting MSI members’ funding of civil society, sometimes those safeguards are absent or poorly enforced.<sup>38</sup> CSOs who directly accept funding from MSI members can create a perceived, or actual, conflict of interest. In the two such instances that have been confidentially reported to us, the situations created tensions within CSO constituencies. While there was no suggestion that these particular organizations were “puppet” or “briefcase” CSOs, there was a general sense that these organizations perceived the MSI as less of a forum for achieving accountability than for engagement and dialogue, and adopted stances consistent with this perception. In a more concerning situation, during interviews with stakeholders in EITI we found that in seven of 15 national multi-stakeholder groups, the government was involved in the selection of the CSO representatives. (Note, this is different from the selection of CSOs to EITI’s international board,

explored in the case study in Spotlight 2.2.) We also found that many CSOs outside of these multi-stakeholder groups had doubts about the freedom or willingness of those groups to raise questions of corruption or wrongdoing that might implicate the government.<sup>39</sup> Given that EITI was developed to address issues of corruption in the extractive industry, the fact that governments with documented ties to corruption in the natural resource sector, like those of Nigeria and Cameroon,<sup>40</sup> were involved in the selection of the very organizations meant to fulfill a “watchdog role” raises alarming questions about the reliability and effectiveness of the initiative in those countries.

While allegations or concerns about the independence of CSO voices tend to be relatively specific and few, the vulnerability of civil society to corporate capture illuminates a more fundamental issue: the general lack of accountability of civil society to rights holders or any broader constituency. The ways in which different MSIs select and accept CSO participants vary, but—beyond requiring that CSOs are nonprofit organizations—there is no broadly followed practice of requiring civil society to be accountable or even connected to a wider constituency. At best, the civil society constituency in an MSI establishes membership criteria for CSOs and controls who can join and then vote on their representatives for the governing body.<sup>41</sup> At worst, proof of a CSO’s nonprofit status is sufficient for representation in MSI governance.<sup>42</sup> This is compounded by the lack of term limits, adequate conflict of interest provisions, or membership removal processes in MSIs.<sup>43</sup> Problems within civil society constituencies in some MSIs have prompted CSOs to resolve this issue of legitimacy and lack of accountability to a wider constituency by creating more robust selection criteria,<sup>44</sup> but such efforts come at a considerable cost of both resources and time, and may not be viable for smaller initiatives or CSO constituencies with limited resources.<sup>45</sup> As a result, CSO representatives who are poor advocates—whether because they only sporadically attend board meetings, do not have sufficient content knowledge, or any other reasons—can hinder the effectiveness of the constituency.

Finally, we have observed that, over time, more adversarial or deeply committed CSOs have chosen to end their participation in MSIs because of their disappointment and lack of faith in the initiative (see **Insight 1: Influence**). While this is still an early trend, we believe that over time this will result in MSIs being dominated by CSOs, or individuals within CSOs, with less adversarial dispositions.

These factors, ranging from potential diversity and divergence, to lack of accountability and biases over time that favor less adversarial CSOs, can inhibit a CSO’s ability to perform a “watchdog” role in MSIs, or otherwise ensure that MSIs are effectively closing governance gaps.

### **C. Resourcing and capacity constraints undermine civil society’s ability to engage as equal partners and drive change, with particularly exclusory effects on Global South CSOs**

MSIs are resource-intensive and highly technocratic platforms for engagement. This means that those stakeholders with the most resources, technical expertise, and access to capital are able to exercise more influence over the policies and agenda of MSIs than those actors with fewer resources. CSOs generally have limited resources, especially compared to their industry or government counterparts. As such, resourcing and capacity constraints severely undermine their ability to engage as equal partners and effect change.

The governance structures and processes that regulate many MSIs are also highly bureaucratic and technical, and may involve forums for decision-making, stakeholder consultation, ad hoc groups, regional and national bodies, and expert advice. Effective CSO participation in each of these meetings, as in MSIs more broadly, requires taking the time to discuss and

*“CSOs generally have limited resources, especially compared to their industry or government counterparts. As such, resourcing and capacity constraints severely undermine their ability to engage as equal partners and effect change.”*

formulate internal positions and strategies, both within organizations and with other CSO participants. Participation entails time and costs associated with travel for in-person meetings and outreach with wider constituents.<sup>46</sup> As illustrated in the EITI case study in Spotlight 2.2, the sheer number of meetings and volume of materials produced by MSIs can mean that the limited resources available to CSOs are allocated to simply keeping up with routine governance and oversight, rather than to advancing reforms or ensuring the initiative's wider human rights impact.

We note that, if other constituencies elect not to engage in this type of activity, then the status quo remains—whereas CSOs need to be actively engaged to advance reforms or to garner support for contested issues, such as disputes around compliance with standards or suspending members (see the discussion of compliance in **Insight 4: Monitoring & Compliance**).

CSOs based in the Global South face even greater barriers to participation and demands—especially relative to their resources. Multiple studies have documented the risk that MSIs may reproduce existing power asymmetries, exploring issues such as how holding increasingly bureaucratic and technical executive meetings in English may inhibit Global South participation in MSIs.<sup>47</sup> In addition, because MSIs often have few contacts in the Global South capable of lending assistance, a CSO in the Global South may be overextended by multiple engagements with different MSIs at once.<sup>48</sup> Furthermore, grassroots or local CSO representatives based in the Global South are generally required to travel further distances at a greater cost in order to attend meetings.<sup>49</sup> As one CSO representative from Cameroon noted, “The indigenous population is vast and dispersed . . . Before the meeting, you have to get all the materials to prepare. But we don't have the time or financial resources to collect all the problems. That is a major constraint, that we are not able to go everywhere and get the sense of all the problems.”<sup>50</sup> Some researchers have argued that, as a result of these dynamics, MSIs may in fact marginalize or undermine alternative priorities developed by Global South rights holders.<sup>51</sup> These are all dynamics that we, too, have observed.

It is thus unsurprising that, despite their standards being applied to factories and farms in the Global South, the overwhelming number of MSI boards we have encountered are—across all the constituencies—majority Global North representatives.<sup>52</sup> Even in the rare commitment to geographic diversity by the Forest Stewardship Council, an MSI whose governance requires a balance of Global North and Global South participants,<sup>53</sup> there have been documented exclusionary effects on Southern actors, as discussed in this section.<sup>54</sup>

*“ . . . the overwhelming number of MSI boards we have encountered are—across all the constituencies—majority Global North representatives.”*

To combat this trend, MSIs may take well-intentioned steps to support the capacity of rights holders and CSOs to participate with equal voices, particularly those from the Global South. Such efforts, when done effectively, could not just help address inequities, but could also provide resourcing that enables CSOs to better liaise and engage their constituents—efforts that many CSOs have reported to us are stymied by lack of funding or network connections. However, such financial arrangements can also create perverse motivations for participating in an MSI. At their worst, they risk jeopardizing the independence of CSO representatives or compromising a CSO's integrity, as financial support might raise suspicion among groups outside of the MSI. For example, our earlier research into multi-stakeholder groups in Cameroon and the Democratic Republic of Congo found that members who attended all of their meetings were entitled to receive up to US \$6,000 in per diems annually.<sup>55</sup> This is a significant amount of money, particularly in light of the fact that the per capita annual income in those countries is only a fraction of that amount. The result was that CSOs outside of the MSI perceived these payments as conflicts of interest, and questioned whether the money could lead to “capture” and distort stakeholders' motivations for joining the initiative, which undermined the trust and perceived credibility of the MSI at the local level.<sup>56</sup>

#### **D. The process-oriented governance culture of MSIs can further deplete CSOs' limited resources and undermine efforts to push for reform**

Beyond formal governance rules, we have also noticed that the culture at MSIs—particularly those with government members or a large membership base—tends to be highly process-oriented. Prior to changing their practices or key policies, MSIs routinely engage in extensive public review, consultation, and internal deliberation. As the EITI case study in Spotlight 2.2 indicates, it is not uncommon for reform proposals on an MSI's accountability or remedial mechanisms to undergo many rounds or years of discussion, revision, and expert study, only for the initiative to reject any substantive change at all.<sup>57</sup>

While inclusive and careful consideration of issues has merit and considerable value, it also means decision-making on important issues can be very slow, which can be particularly taxing for those advocating for reform. This type of process-heavy decision-making can also be abused by actors to avoid reform and preserve the status quo. In other words, the notions of deliberation and inclusivity can be hijacked to avoid or delay contested or high-stakes decisions.

On several occasions, CSOs have complained to us in confidence that the excessive deliberation and processing of proposals can sometimes feel like a delay tactic. While it is difficult to understand the motives of stakeholders or their willingness to genuinely engage in reform, we have registered an increase in the skepticism and concern of some CSO participants about whether such deliberations are conducted in good faith.

When MSI processes delay decisions—whether in good faith or in bad—they deplete CSOs' limited energy and resources to push for reform. In some cases, those resources may evaporate altogether, as CSOs may have limited project funding to focus on the reform proposal for a set number of years, face staffing or organizational priority changes, or may lose enthusiastic advocates due to MSI board term limits. These dynamics mean that MSIs can sap CSOs' limited resources through protracted discussions, thus undermining the advancement of pro-human rights reforms.

#### **SPOTLIGHT 2.2. Despite significant resourcing, civil society representatives in EITI are structurally disadvantaged in governance and decision-making**

The Extractive Industries Transparency Initiative stands out among MSIs because of the significant resources and financial support made available for civil society participation in the initiative. Several major philanthropic foundations support CSO participation in EITI (including Open Society Foundations) as does the World Bank, and EITI itself. This has enabled Global South representation on the EITI Board. In addition, Publish What You Pay, a network of over 700 non-governmental organizations committed to transparency and accountability, has also long provided significant coordination and logistical support to the civil society constituency.<sup>58</sup> EITI also has considerable resources, with a budget of US \$7 million and over 30 full-time staff; approximately 7% of staff time is dedicated to supporting the Board and some resources are dedicated specifically for assisting civil society.<sup>59</sup>

CSO engagement within EITI occurs both on the international EITI Board—which this case study focuses on—and also in countries implementing EITI as part of the national multi-stakeholder groups that oversee the initiative. In this sense, CSOs provide an important oversight function and their participation in EITI is instrumental to its success. The major reforms that have

occurred within EITI have often been championed by CSOs, including the strengthening of EITI's standards on project level reporting, contract transparency, and beneficial ownership.

At the same time, our research shows that there are significant governance challenges that undermine CSOs' ability to achieve their full potential as agents of change within EITI. Between 2015–2018, staff from MSI Integrity observed nine EITI Board meetings. We also observed the closed half-day meetings held in advance by civil society to prepare and strategize for each Board meeting. Despite the unusually high amount of resourcing available to CSOs, the significant effort devoted to coordination by EITI staff, CSOs, and donors, and the reforms these efforts have achieved in expanding EITI's scope and coverage since its founding, we discern that civil society is still significantly disadvantaged in EITI governance in a way that undermines the accountability objectives of the initiative.

### **Large workload undermines CSOs' ability to drive reform:**

Several CSO board members have noted that it is very challenging to meet the demands of board duties in addition to their regular employment responsibilities. The EITI Board meets two to four times a year, usually with a very heavy agenda. By way of example, the average-sized Board packet was 326 pages in 2018, resulting in almost a thousand pages of reading for that year's three meetings, and included complex decisions such as whether to suspend Afghanistan, a move that would have resulted in the loss of its foreign aid that is tied to EITI participation.<sup>60</sup> In addition, all Board members participate on one or more Board committees, some of which meet monthly.<sup>61</sup> Those committees may include further sub-working groups, some of which meet as often as twice monthly, on top of normal committee and Board obligations.

Our general observation is that the complexity and enormity of governing EITI is all-consuming for CSOs, who are left with limited capacity for developing or advocating their own proposals for reform. The pre-Board half-day meetings we observed were often primarily spent planning how to respond to the complex or contentious issues raised by other constituencies, with limited time dedicated to issues that CSOs themselves had identified as a priority, such as the reform or progress they had joined EITI to advance.

### **Power imbalances negatively impact CSO participation in formal and informal decision-making processes:**

CSOs are a minority on the 21-person EITI Board, which is comprised of member countries (9), industry and investors (6), civil society (5), and a chair (1). Although decisions can be made by qualified majority, requiring a third of each of the three constituencies and 13 of the 21 votes of the Board as a whole, we observed a practice of expecting every decision to be reached by consensus. While this does allow CSOs to veto proposals, it also disadvantages CSOs by requiring them to convince each individual Board member to support pro-reform outcomes.

Moreover, although EITI has clear decision-making rules and frequently holds meetings in Global South countries, we observe that contentious matters are often negotiated during closed or informal conversations that reflect a distinctly Western culture. For example, negotiation over contentious issues frequently took place during evening receptions or late-night drinks at the hotel bar, and drew heavily on interpersonal relationships. We observed many CSO representatives disengaged from these informal interactions—particularly those from the Global South or for whom English is not a working language—leaving a much smaller number of CSO representatives to bear much of the late-night

negotiation and decision-making.

**Lack of expertise affects the quality of CSO engagement on critical issues:**

While the nomination and selection process for the CSO representatives to the EITI Board includes evaluating the skills and expertise of the nominees, the governance of the MSI frequently involves dealing with issues well beyond the knowledge and expertise that could reasonably be expected of them. EITI Board governance includes examining complex legal, tax, and financial issues, alongside matters that require expertise idiosyncratic to MSIs, such as effective rules for monitoring, governance, or implementation. Although some CSOs—including MSI Integrity—provide ad hoc analysis about and support for specific reform proposals, we have observed that the ramifications of certain proposals are not always fully understood by CSOs, undermining the ability of CSOs to ensure EITI is robustly structured and governed.

**Different, and sometimes conflicting, agendas:**

CSO representatives are highly diverse, not just geographically, but also with regard to their constituencies, organizational affiliations, backgrounds, and interests. While some representatives are from large international CSOs with a focus on finance and economics, others may be from community-based organizations in the Global South that also monitor the environmental or social impacts of extractive activity. While diversity has many benefits, it can produce significant internal divisions and factions based on the different interests and agendas of CSOs. For example, in general, CSO representatives from countries implementing EITI (particularly those countries with repressive regimes) tend to be more reluctant to support the suspension or expulsion of countries for violating standards relating to human rights and civic space, whereas Northern-based CSOs tend to prefer to set strong precedents for wrongdoing. The tension is understandable: individuals from implementing countries may fear that such precedents mean their country could also be suspended or expelled at a later point, and they may lose the protection, resourcing, or other intangible benefits that EITI implementation or participation confers. Meanwhile, those participating in EITI from the Global North, because of EITI's potential to achieve accountability outcomes, may wish to set strong precedents and deter other countries from abusing rights. This internal dynamic significantly contributed to the delay in suspending Azerbaijan, which took almost four years (see **Insight 4: Monitoring & Compliance**, Figure 4.2).

**Logistical and coordination difficulties undermine effective participation:**

The CSOs recognize that to effectively drive an agenda of reform, much analysis, coordination, and planning are required between Board meetings. However, despite their best efforts, language barriers, different time zones, limited time, and the sheer volume of decisions that must be made between Board meetings, mean that difficult decisions are often left to be resolved at the in-person pre-Board half-day meeting. The complexity and high stakes of these decisions, combined with travel exhaustion, mean that they are sometimes rushed, and CSOs do not have the time to plan their strategy and approach to garner support for their positions.

While some of these issues are true for other constituencies, the difference is that CSOs in EITI are generally the primary agent of change when it comes to promoting more rigorous human rights, transparency, or accountability outcomes or procedures. While there are, of course, exceptions and allies, in general our observation has been that other constituencies are less immediately amenable to proposals to change EITI in these ways.

As a result, we have observed that passage of pro-accountability, transparency, and human rights reforms is often very slow and highly resource-intensive. The effort by CSOs to encourage EITI to adopt a grievance mechanism is illustrative: CSO advocacy resulted in EITI agreeing to review and address its procedures for raising complaints in 2016. This process lasted almost three years and spanned ten meetings of the Governance and Oversight Committee, resulting in the creation of a specific technical working group. It included a review by Harvard Law School's Negotiation and Mediation Clinic, which recommended that EITI "create structures to address grievances in a transparent and consistent manner."<sup>62</sup> Yet, at the end of the process, which involved considerable input and engagement from the two CSO representatives driving the effort, and in which MSI Integrity also provided pro bono expertise and input, the only change was that the Secretariat shared more information about existing processes online and created a Google form—currently in English only—that now enables individuals to file complaints.<sup>63</sup> The Board did not change any of its practices for how those complaints are disclosed or handled.

This is not to say that civil society within EITI is not capable of achieving reforms, or that some members or participants from other constituencies do not support a pro-reform agenda. As noted earlier, with gradual support from other constituencies, the CSOs successfully expanded the EITI's standards to include limited protections for civic space and to require further transparency around beneficial ownership and extractive contracts. Rather, this case study highlights the burden placed on civil society—even in the case of an initiative where CSOs have access to significant resources and finance to support their involvement—and the difficulties of effectively governing the initiative to achieve accountability outcomes.

## Our Insights

The perceived legitimacy of MSIs stems from the fact that they include stakeholders—civil society or rights holders—who might act as watchdogs over corporations and drive pro-human rights reforms. However, in practice, MSIs generally exclude rights holders from governance and implementation processes, relying instead on CSOs to counterbalance corporate power. Yet, CSOs are ill-equipped to challenge corporate power within MSI governance due, in part, to their resource constraints, broad diversity, and the fact they generally need to win the support of corporations when making key decisions. This is exacerbated by the process-oriented nature of MSIs, which favors the status quo and absorbs CSOs' limited resources. Despite the rhetoric of multi-stakeholderism, in reality, MSIs entrench power in favor of corporations—the entity they seek to regulate. MSIs are thus poorly situated to fulfill “regulatory” functions, such as determining whether to expel non-complying members or fix weaknesses in accountability mechanisms.

While the inclusion of civil society and rights holders in MSIs has been seen as central to their potential for closing governance gaps, MSI governance structures and practices do not enable or empower these stakeholders to uphold the integrity of an MSI's standards or mission. Civil society can only “check” the power of corporations if they have the ability to exercise meaningful power within an MSI. MSIs, however, have not empowered CSOs and rights holders with the necessary resources or decision-making power to act as agents of change. Their ability to make key decisions can also be contingent on obtaining the support of a portion, if not all, of an MSI's member corporations, and sometimes governments. As a result, MSIs often cannot reliably fulfill the “regulatory” aspects of their mission and operations: determining whether certain members should be expelled or sanctioned and providing stakeholders monitoring, remedial, or enforcement mechanisms (see **Insight 4: Monitoring & Compliance** and **Insight 5: Remedy**, which outline how these functions are often ultimately within the realm of multi-stakeholder boards or panels). These issues can often be contested, in which cases MSIs' processes are resource-intensive, slow, and rely on CSOs or rights holders to drive change. Meanwhile, corporations (and governments) resistant to change are able to delay decisions or—if a sufficient number agree—to effectively veto them.

This is not to say that CSOs are not able to individually voice their perspectives as much as other stakeholders, that change and reform in an MSI cannot or has not happened, or that MSIs have not yielded some positive benefits between stakeholders. Many stakeholders have reported to us that the space MSIs offer for learning, dialogue, experimentation, relationship-building, and concomitant norm diffusion make membership in them worthwhile. Some MSIs have also begun to engage in public policy and legislative reform efforts to support more rights-promoting outcomes. The current consensus and majority-based decision-making of MSIs, as well as their broader governance culture and dynamics, appear well-suited for achieving these types of aims; MSIs work to bring stakeholders together to exchange lessons, ideas, and positions internally in order to identify and negotiate areas of common agreement. Thus, assuming the appropriate stakeholders are engaged and that rights holder voices are being represented, MSIs can be powerful forums for identifying or acknowledging good practice, achieving incremental reform, and for learning, improvement, and experimentation.

In other words, there is a disconnect between the assumed role of CSOs and their actual capacities within the format and structure of MSIs. Multi-stakeholderism can have benefits, but the governance structures and culture within MSIs mean that CSO participation cannot be relied upon to ensure that abuses are prevented or remediated, or to hold corporations or governments accountable for abuses—even though these are the explicit functions that MSIs take on. This is compounded by the absence of rights holders from MSIs. Rights holder inclusion is deeply intertwined with the substantive rights outcomes and the ability of MSIs to establish rights protections. If rights holders were meaningfully involved and empowered in the design of a governance initiative, we believe that they would design and demand systems that offer robust human rights protection and access to effective remedy when those protections fail.

In our view, the limitations of MSIs as tools for closing governance gaps—their original promise—have over time put some CSOs in an impossible position, and are the underlying reasons why some prominent initial supporters have ultimately left MSIs: because they are powerless to change them. We anticipate that over time, adversarial or activist CSOs will continue to leave MSIs (see **Insight 1: Influence**), which will further transform them into effectively corporate-led initiatives.

In this way, some scholars argue that multi-stakeholder governance reinforces a larger trend of “corporate capture,” in which corporations exercise undue influence over these initiatives while excluding CSOs and rights holders from equal opportunities to effect change.<sup>64</sup> The concern is that this process of corporate capture results in policy formulations that favor the vested interests of corporate actors. As a result of these structural issues, we now believe that MSIs, in their current form, generally serve to entrench corporate power, rather than upend it.

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# Endnotes

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- 5 G. Schouten, P. Leroy, and P. Glasbergen, "On the Deliberative Capacity of Private Multi-Stakeholder Governance: The Roundtable on Responsible Soy and Sustainable Palm Oil," *Ecological Economics* 83 (2012): 42; Jem Bendell, "In Whose Name? The Accountability of Corporate Social Responsibility," *Development in Practice* 15, nos. 3 and 4 (2005): 368. See also Luc W. Fransen and Ans Kolk, "Global Rule-Setting for Business: A Critical Analysis of Multi-Stakeholder Standards," *Organization* 14, no. 5 (2007): 671; Srilatha Batliwala, "Grassroots Movements as Transnational Actors: Implications for Global Civil Society," *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, 13, no. 4 (December 2002): 397. ("Global civil society is a microcosm, in many ways, of the imbalances of power, resources, and access that characterize the world at large. Northern groups and networks—even if they have 'Southern' organizations in their membership—occupy much of the space for citizen input at the multilateral institution level.")
- 6 To be clear, in the context of MSIs, we consider trade unions as rights holders or affected community representatives; see **Defining the Key Concepts**.
- 7 The mission statements of all 40 MSIs in this study are available from the spreadsheet "MSI Trends Dataset" on our website and contains information current as of June 30, 2019. See <https://www.msi-integrity.org/not-fit-for-purpose/aims-and-evidence/datasets/>.
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- 12 See **Insight 5: Remedy**.
- 13 "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020.
- 14 For example, the ISEAL Alliance notes that when its members (many of whom are MSIs) set or revise standards, "directly affected stakeholders" should be consulted. [Setting Social and Environmental Standards: ISEAL Code of Good Practice](#), vers. 6.0, December 2014, 12. However, as it included businesses in its definition, there is no direct assurance that this process includes rights holders.
- 15 International Commission of Jurists (ICJ), [Effective Operational-Level Grievance Mechanisms](#) (Geneva: International Commission of Jurists November 2019), 11, 25, 87.
- 16 Interview 85, factory worker, Philippines, August 19, 2017.
- 17 Interview 36, forest villager, Cameroon, May 26, 2017.
- 18 Interview 114, factory worker, Philippines, August 27, 2017.
- 19 Interview 69, factory worker, Philippines, August 16, 2017.
- 20 Interview 71, factory worker, Philippines, August 16, 2017.
- 21 Interview 20, forest villager, Cameroon, May 23, 2017.
- 22 Interview 25, forest villager, Cameroon, May 23, 2017.
- 23 Interview 129, farmer, Cameroon, June 10, 2017.
- 24 MSI Integrity, [Understanding Community Experiences of Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified](#), Summary report, Port Harcourt, Nigeria, June 20–21, 2017, 23.
- 25 MSI Integrity, *Understanding Community Experiences*, 23–24.
- 26 Bendell, "In Whose Name?" 363.
- 27 The precise definition of "civil society" varies from source to source; however, there is consensus that it excludes government and for-profit actors. For example, according to the World Health Organization, "civil society embraces the general public at large, representing the social domain that is not part of the State or the market.... The increasingly accepted understanding of the term CSOs is that of non-state, not-for-profit, voluntary organizations formed by people within the sphere of civil society." World Health Organization, [Understanding Civil Society Issues for WHO](#), Discussion paper no. 2, February 2002, 4. The UN Development Programme identifies civil society as "the full range of formal and informal . . . organizations that are outside the state and market." "[UNDP and Civil Society](#)," UNDP.org, accessed January 15, 2020.
- 28 Sandra Moog, Andre Spicer, and Steffen Böhm, "The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council," *J Bus Ethics* 128 (2015): 481.
- 29 Herman Brouwer et al., "Analysing Stakeholder Power Dynamics in Multi-Stakeholder Processes: Insights of Practice from Africa and Asia," *Knowledge Management for Development Journal* 9, no. 3 (2013): 26; see also MSI Integrity, [Protecting the Cornerstone](#), February 2015, 92–93, detailing how CSOs in the Philippines took steps to ensure community voices in the Extractive Industries Transparency Initiative.
- 30 See "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020.

- 31 In addition to our MSI Evaluation Tool, see ISEAL.
- 32 IOD PARC, [Ethical Trading Initiative External Evaluation Report](#), (April 2015), accessed January 20, 2020.
- 33 IOD PARC, 19.
- 34 IOD PARC, 19.
- 35 MSI Integrity, *New Regulators*, 9–11.
- 36 MSI Integrity, *New Regulators*, 9–11.
- 37 See EMJee Consult, “Research on Multi-Stakeholder Initiative and Civil Society Space: Final Report of the Exploration of the Roles of MSIs in the Enabling Environment for Civil Society (EEFCS) in Tanzania,” June 2018, 10. See also the EITI case study included in this chapter.
- 38 None of the five MSIs in our pilot evaluations, for example, included restrictions regulating or limiting payments or contributions from targeted actors to civil society.
- 39 See MSI Integrity, *Protecting the Cornerstone*, 38–40. Other instances have been reported to us in confidence.
- 40 See Bernard Gauthier and Albert Zeufack, “Governance and Oil Revenues in Cameroon,” *Plundered Nations? Success and Failures in Natural Resource Extraction* (2011): 27–78; Ogbewere Bankole Ijewereme, “Anatomy of Corruption in the Nigerian Public Sector: Theoretical Perspectives and Some Empirical Explanations,” *Sage Open* 5, no. 2 (2015): 6.
- 41 See Consensus Building Institute, [“Selection of Civil Society Representatives on the International EITI Board \(2019–2022\)”](#), accessed January 25, 2020; Roundtable of Sustainable Palm Oil, *The Statutes of the Roundtable on Sustainable Palm Oil*, November 17, 2018, 5.
- 42 See Roundtable of Sustainable Palm Oil *The Statutes of the Roundtable on Sustainable Palm Oil*, November 17, 2018, 5.
- 43 See MSI Integrity, *Protecting the Cornerstone*, iv–v, vii, 16–21.
- 44 For example, in 2016, the inclusion of an inappropriate candidate on the ballot for a civil society seat led CSOs to boycott the proceedings, and ultimately, to the CSO coordinating group, Publish What You Pay, undertaking a major revision of its constituency selection process and rules. See [“Selection of Civil Society Representatives on the International EITI Board \(2019–2022\)”](#); Consensus Building Institute; [“Flare-Up.”](#) *The Economist*, February 25, 2016.
- 45 For example, the EITI revision of its CSO criteria required a paid third-party facilitator and the creation of an advisory panel: see Publish What You Pay, [“Prominent Experts to Advise on the Independent Review of Civil Society Guidelines in the EITI,”](#) March 13, 2018.
- 46 Mariëtte van Huijstee, *Multi-Stakeholder Initiatives: A Strategic Guide for Civil Society Organizations* (Amsterdam, The Netherlands: 2012), 31–32, 51–52; MSI Integrity, *Protecting the Cornerstone*, 44.
- 47 See, e.g., Schouten, Leroy, and Glasbergen, “On the Deliberative Capacity,” 45; Moog, Spicer, and Böhm, “Politics of Multi-Stakeholder Initiatives, 481; Brouwer et al., “Analysing Stakeholder Power, 11–31.
- 48 van Huijstee, *Multi-Stakeholder Initiatives*, 323.
- 49 MSI Integrity, *Protecting the Cornerstone*, 44.
- 50 Interview 14, CSO representative, Cameroon, May 22, 2017.
- 51 Bendell, “In Whose Name?,” 365.
- 52 Our observation that most MSIs have a board primarily composed of Global North representatives is supported by a rough internal approximation of North/South board composition conducted in November 2018, which is available on file with MSI Integrity by request.
- 53 Forest Stewardship Council, [Statutes](#), 2014, 8–9, 12, establishing Social, Environmental, and Economic chambers with equal voting power, and requiring both its general assembly and board of directors to be geographically diverse. By comparison, see, e.g., the governance of Bonsucro, which does not require any diversity on its board in its governing rules: Bonsucro Limited, [Articles of Association of Bonsucro Limited](#), 2006.
- 54 See, e.g., Moog, Spicer, and Böhm, “The Politics of Multi-Stakeholder Initiatives,” 469–493, describing how “the initiative’s growing organizational complexity has meant that it is increasingly difficult to engage meaningfully” and that this is particularly difficult for “smaller groups from the global South and nationally based campaign groups in the North.”
- 55 MSI Integrity, *Protecting the Cornerstone*, ix, 48–49.
- 56 MSI Integrity, *Protecting the Cornerstone*, ix, 48–49.
- 57 See also the delays documented in **Insight 4: Monitoring & Compliance**, Figure 4.2 as another example of delayed decision-making within MSIs.
- 58 See The World Bank, [“Extractives Global Programmatic Support \(EGPS\) Multi-Donor Trust Fund,”](#) accessed February 7, 2020. [Annual Trust Fund Implementation Progress Report to Development Partners Australia, Belgium, Canada, European Commission, Finland, Germany, Netherlands, Norway, Switzerland, United Kingdom](#), Fiscal Year 2018, 7.
- 59 See [“Funding,”](#) EITI, accessed January 20, 2020.
- 60 The EITI Secretariat has noted that efforts are being made to reduce the size of the board packet (communication exchange on record with MSI Integrity).
- 61 See, for example, the requirements of the Implementation Committee: [“Board Committees,”](#) EITI, accessed January 20, 2020.
- 62 *Harvard Law School Clinical Negotiation and Mediation Clinical Program Review of the Grievance Mechanisms of the Extractive Industries Transparency Initiative*, 2018, 3. Copy available from the EITI Secretariat.
- 63 [“How to Voice Your Concern,”](#) EITI, accessed January 20, 2020. Note that this form has since been removed with the explanation: “We are updating the online form for raising concerns to the attention of the EITI’s international management. The form will be available here shortly.”
- 64 L. Pingeot, “Scrutinizing the Corporate Role in the Post-2015 Development Agenda,” in *State of the World 2014* (Washington, DC: Island Press, 2014); P. Taylor, “In the Market but Not of It: Fair Trade Coffee and Forest Stewardship Council Certification as Market-Based Social Change,” *World Dev* 33 (2005): 129–47.