The so-called resource curse raises moral issues. Who, if anyone, is morally responsible for it? This article argues that this question amounts to: who is blameworthy for the violations of people’s property rights? The international oil companies are blameworthy for the violations of property rights only in the case of complicity, not in the normal purchase case. Yet the international community has to take action against massive violations of property rights. The article discusses different measures, and criticizes voluntary initiatives such as the Extractive Industries Transparency Initiative for not making the states accountable to their people. In this line of thought, it argues for an extension of the mandate of the International Criminal Court: massive violations of property rights should be prosecuted at the international level. Keywords: resource curse, responsibility, violations of property rights, human rights, Extractive Industries Transparency Initiative, International Criminal Court.

Ghana has recently discovered oil and will soon start exploiting it. The hopes in Ghana are high, but will they be fulfilled? Will the oil revenues—as one might expect—contribute to the development of this country? Raising these questions in such a case is relevant because oil, as other natural resources, might turn out to be more of a curse than a blessing. Many African countries are rich in resources. Yet the percentage of people living in absolute poverty has increased, as has been the case in oil-rich Nigeria over the past decade.

Another example is Equatorial Guinea, where President Theodor Obiang Nguema took power by force in 1979, killing the former president, his uncle Francisco Nguema, in the same year. Equatorial Guinea is well known for its massive human rights violations. The country is fully controlled by the presidential family. No opposition is allowed, and the president is regularly re-elected by 99 percent of the population in elections that are neither free nor fair. Due to the discovery of oil in 1996, the country has enjoyed the highest growth rates in the world; for instance, 21 percent in 2007. Yet the majority of the population lives in severe poverty; in 2006, 77 percent of the population lived below the poverty line, “a strikingly high rate of poverty,” as the International Monetary Fund (IMF) put it in its recent country report. Poverty is strikingly high considering the revenue accruing from the country’s oil deposits. “It is sub-Saharan Africa’s fourth-largest producer of crude-oil but...
much of its revenue is spectacularly squandered. The president is . . . said to have spent several tens of millions of dollars on six private planes, including a jumbo jet complete with a gold-plated bathroom.”

The situation is similar in the Republic of Congo (Brazzaville) where the oil production is to a large extent controlled by the presidential family. The country probably is not as badly governed as Equatorial Guinea, but its wealth remains under the firm control of the presidential family while around 50 percent of the population is affected by severe poverty. Many more examples of such inequalities can be found in Africa. The same disturbing discrepancy between abundant resources and high incidence of poverty can be found in other resource-rich countries such as Nigeria and Angola. The revenues from the sale of natural resources are used for personal enrichment by some privileged people. It is neither used for the common good nor for economic development and capacity building.

Authoritarian regimes such as those of Equatorial Guinea and the Republic of Congo sell the rights to extract oil to transnational companies. One might think that these are internal problems of such countries: that it is their leaders who are responsible and should be blamed for abusing their power and for mismanaging the revenues from the sale of natural resources. But from a moral point of view, is it only a domestic issue in producer countries? Who is to be blamed? And what—if anything—should be done about it? These are the questions that I address from a moral philosophy perspective in this article. The next article in this special issue of *Global Governance*, by Jorge Viñuales, examines the same issues from an international law viewpoint.

**Violation of Property Rights**

What is it that goes wrong in the countries affected by the resource curse? The abuse of power by the leaders seems to lead to violations of property rights. But whose property rights are violated? The answer to this question depends on who is the owner of the natural resources. In a seminal paper on property rights and the resource curse, British philosopher Leif Wenar holds the view that the natural resources of a country are owned by its people. That is to say, only the people are authorized to determine what should be done with the natural resources of the country, whether and to whom they can be sold. But why should the peoples be the owners of the natural resources of their countries? Wenar refers to Article 1 of the International Covenant on Civil and Political Rights (1966), which states that “all peoples may, for their own ends, freely dispose of their natural wealth and resources.”

This treaty proclaims the right that peoples have to dispose freely of their resources as a human right, and Wenar adopts the following view: “A people’s right to its resources is a human right: Like a people’s right to self-determination or a people’s right against genocide, this is a human right proclaimed in pri-
mary documents of international law.”5 But is the people’s right to its resources really a human right? Wenar obviously takes the human rights treaty to be authoritative in this respect: a people’s right to its resources is a human right because it is proclaimed as one. And since a people’s right to its resources is a human right, the violation of this right is a serious crime.

Do the citizens own the natural resources of their country? The fact that a people’s entitlement to the country’s resources is stated as a human right by the human rights treaty is in itself not a decisive reason to see it as a human right. And in addition, it is not even clear whether it is a right at all: what entitles peoples to dispose freely of their natural resources? Brian Barry takes the idea of national sovereignty over natural resources to be a pure convention, which has “a transcendent simplicity and definiteness that must recommend it in international relations.”6 He thinks that this simplicity is by far not enough to justify national sovereignty over natural resources. The question is indeed: what could entitle the people of a country to have a right to its resources? The people did not do anything for the resources to be there and they did not inherit them from people who on their part brought them into existence.7 Why should natural resources not be seen as a common property of mankind (i.e., something every one has an equal right to enjoy and benefit from)?8 In my view, these questions cannot be answered simply by referring to the human rights treaty on civil and political rights. Thus, it is not clear whether only the people of a country or every one of us have a right to benefit from the use of natural resources.

With regard to who really owns the natural resources of a country, one thing seems to be clear enough: it is surely not the leaders and the regimes of these countries. They might be authorized to sell the country’s resources, but they do not own them. And since the natural resources are not the private property of the country’s leaders, these leaders are not authorized to use the revenues from sales of natural resources for private purposes. Wenar argues that they are not even authorized to sell the oil. He thinks that in doing so these regimes act like thieves.9 The difference, though, is that they unfortunately are not treated like thieves. An ordinary thief who sells stolen goods gets prosecuted. But the leaders of these countries are treated as if they were entitled to sell off their country’s resources. Thomas Pogge calls this “the resource privilege”: “such leaders are internationally recognized as entitled to sell natural resources.”10

According to Wenar, the only ones who could authorize the regime to sell the resources are the people (i.e., the resource owners). And because this is not the case with authoritarian regimes, they are not authorized to sell the country’s resources. More precisely, “for an owner to be able to authorize sales, the owner must at least: (1) be able to find out about the sales; (2) be able to stop the sales without incurring severe costs; (3) not be subject to extreme manipulation by the seller.”11
In the case that these three conditions are not met, regimes cannot claim to be authorized and, therefore, have no right to do so.

Is Wenar’s view acceptable? In many oil-rich countries, these conditions indeed are not met. Does that mean that the rulers are not authorized to sell the country’s oil? The answer depends on what it takes to be authorized.

One could argue that rulers are authorized to sell if the right to sell has been assigned to them by the people. But this is not what Wenar has in mind. According to him, a regime is authorized to sell the oil provided that the people do not object to the sale and could object without incurring severe costs. Why are these conditions crucial for the authorization of selling oil? They make certain that the people could have a say if they wanted to. But why should they want to in the first place? They could have reasons to do so: the sale of the oil may not be in their best interest or not of sufficient value to them. And if this is the case, they could ask their rulers to stop selling oil. The opportunity to stop the regime from selling the oil only matters insofar as there is a reason to object to the sale of the oil.

But is this the case? It is reasonable to assume that the citizens of Equatorial Guinea and other oil-rich countries have no reason at all to do this because they have no reason to want their oil not to be sold. Unlike works of art, natural resources such as oil are not something you could want to be preserved. Thus, if the citizens of Equatorial Guinea and other countries had a choice, it is safe to say that they would do exactly the same as President Obiang does: they would sell the oil. Oil becomes interesting only when you sell it. And this is exactly the reason why oil is sold in all countries, even in democratic societies like Norway or the United States. There cannot be any doubt that the citizens of Equatorial Guinea would do the same, given the fact that 77 percent of the population live in severe poverty. In my view and contrary to Wenar’s, President Obiang is authorized to sell the oil. He is authorized in the sense that he is acting with the consent of the people of Equatorial Guinea. They would not object to the oil sale because they have no reason to do so.

Let us clarify this issue of authorization by using another example. Assume that President Obiang decides to purchase valuable equipment for the hospitals of the country, wanting for once to do good to his people. However, he does not ask for their consent. He does not provide them with the opportunity to find out about his plans and, even if they knew, they would not be able to stop him from buying the hospital equipment without incurring severe costs. He acts as an authoritarian leader with regard to all decisions he makes, regardless of whether they are good or bad for his people. If Wenar is right, Obiang would of course not be authorized to buy the hospital equipment, even though one could reasonably assume that the people of Equatorial Guinea, or at least a majority of them, would agree and not think a second about objecting to what Obiang was about to do. The fact that they cannot object to Obiang buying desperately needed hospital equipment does not mean that he is not...
right in doing so. He is authorized to do so because the citizens of Equatorial Guinea have reasons to agree with it.

Of course, one could hold the view that a regime is not authorized to decide anything with regard to a nation’s wealth as long as it has not been democratically elected. But this does not seem to be Wenar’s point. The citizens can object to what the rulers are doing without incurring severe costs, even if the government was not democratically elected. Besides, it is not clear whether the rights of governments completely depend on them being democratically elected. One could say that if a government exercised the rights of its people in a way that the people themselves would do, it does not violate the rights of the people. On the contrary, if it acts the way that its people want it to act, then it exercises the rights of its people.

If this is correct, President Obiang is authorized to sell the oil, thereby not violating property rights of the people of Equatorial Guinea. But then, he is of course not authorized to use the profits for personal enrichment since he is not the owner of the oil revenues. The moral problem is not that Obiang has no right to sell the oil; rather, it is that he has no right to use the revenues in the way that he does. Once more, this is not what Wenar thinks when he asserts that Obiang is not authorized to sell the oil. I argue that the authorization issue does not lie with the oil sale, but rather with the use of the oil revenues.

**Our Moral Responsibility**

Wenar and others argue that we, as consumers, contribute to the plight of the people of Equatorial Guinea and similar countries because some of the money we spend at the gas pump is used to buy weapons to subdue the political opponents and to maintain political repression and poverty. Thus, consumers seem to play an important role in harming these people and probably in violating the right to an adequate standard of living as it is stated, for example, in Article 25 of the Universal Declaration of Human Rights.

Should we accept this claim? It is, without doubt, true that President Obiang is likely to buy weapons with some of the money that we spend at the gas pump. But is this factor what keeps him in power? President Obiang came to power in 1979 by overthrowing his uncle, Francisco Nguema. The oil was discovered in 1996 and its sale began a few years later. Interestingly, Obiang managed to stay in power without oil revenue for about twenty years. Equatorial Guinea was an extremely poor country before the discovery of oil. The oil revenues did not change anything politically; the only thing they changed was that the country became richer and much more money could then be used for the personal enrichment of Obiang and his family. That is to say, Obiang’s power does not depend on the sale of oil. He acted as an authoritarian ruler for twenty years without the oil rent and it can be assumed that he would have continued to do so if no oil money had flown into the country. If this is true,
our contribution to the political repression and poverty of the people of Equatorial Guinea is, if it has an impact at all, rather marginal.

One might object that we nevertheless enable the plight of the citizens of these countries by buying gasoline, cosmetics, and laptops. That is to say, if we did not buy these things, the oil money could not be used for the rulers’ private purposes. This is definitely true. It would not be possible to put the oil money into foreign bank accounts if there were no customers and no demand for oil. But do we thereby contribute to the plight of the citizens of Equatorial Guinea and other oil rich countries?

Clearly, enabling $X$ is not the same as contributing to $X$. The producers of knives make the stabbings possible, but most of us would be reluctant to claim that they thereby contribute to the killing of people. But even if we take the production of knives to be on equal terms with a contribution to stabbings, would we be ready to hold the producers morally responsible for the killings? Of course, we would not.

Those who buy Guinean oil—Western oil companies and governments—know that the seller, just like many other authoritarian leaders, will not put oil revenues to a good use. They know that the rulers they deal with have violated the property rights of their peoples and will continue to do so. They can reasonably assume that the leaders in question will not change their behavior. We harm these peoples, one could argue, by allowing their leaders to continue to violate their property rights. And this is, one might say, morally wrong. We do not stop them from misusing their peoples’ property. Thus, we allow the misuse to continue. “Allowing bad things to happen” can have different meanings here:

1. “Allowing” might mean intentionally not precluding someone from doing bad things. I want another person to do what he or she is about to do. For example, I will not stop them from beating their colleague because I want their colleague to be beaten. This form of allowing is a form of complicity.
2. “Allowing” might, on the other hand, mean unintentionally not precluding someone from doing bad things. I do not want another person to do the things he or she does, but I do not preclude him or her from doing it.
3. “Allowing” can also mean enabling someone to do bad things. I give another person the money he or she needs to buy a weapon to hurt his or her colleague. I can do this intentionally or unintentionally.

How to assess these different meanings of “allowing”? Complicity (allowing in the first sense) is morally wrong. Intentionally not stopping the murderer from killing another person could be as bad as the actual killing. But what about allowing something bad to happen even if I do not want it to happen, in the second or third sense? I think, in some of these cases, we have a
moral duty to preclude others from doing bad actions or a moral duty not to enable them to behave wrongly. But we do not have such a moral duty in all such cases. The producers of knives must know that, unfortunately, some of their products will be used by buyers in lethal ways. But we would not hold them morally responsible for these acts. They would not be blamed for contributing to the killing of people. Compare this with the following case: Paul gives his neighbor a knife, which he knows quite probably will be used by the neighbor for bad purposes; he does not want this to happen. But nevertheless, he does give the neighbor a knife. Of course, he should not do this and he is to be blamed. He assists a moral wrongdoing. This case differs from the knife production case on moral grounds. Why? What is the morally relevant difference between these two cases?

One might say that assisting an act of moral wrongdoing is morally blameworthy if the ensuing moral wrong is inevitable: it is certain that the person will do something morally wrong if I do X. Then doing X will, in itself, be wrong. But if this was the case, we could not account for the different assessment of the two cases: giving a knife to a person with violent intentions, and producing knives and selling them to people who will harm others with knives. The producer of knives can be sure that this will be the case. There is no difference with regard to certainty that the bad results will occur. So why do we judge the knife production differently?

I think the morally relevant difference is the following: the costs of giving up the production of knives not only would be very high for the producers, but for all of us. Conversely, not giving a knife to my violent neighbor would not be costly at all. As Wenar puts it in another paper: “Considerations of cost do indeed play a basic role in our reasoning about responsibility.” This becomes clear when you look at a modified knife case: imagine that one could produce knives with which no one would be able to kill; and assume also that this change could be brought about with low costs. In such a case, we would agree that the production of knives has to be changed. And it would be wrong if the producer does not alter the production. Thus, considerations of costs do play a role in assigning responsibility.

What does this all mean with regard to the sale of natural resources by authoritarian rulers? If Western oil companies and governments have shown some form of complicity (i.e., by wanting the violation of property rights to happen), then it can be argued that this is morally wrong. This might be the case because they benefit from the way that business is done in these oil-producing countries. But then, it also might often be the case that companies and importing states are indifferent to what happens to the revenues they provide to the regimes of the oil-producing countries. They know of the misuse, but they do not stop dealing with these regimes. They likely would say: “This is none of our business.” This constitutes allowing in the third sense of enabling bad things to happen without wanting them to happen.
Is this sense of allowing bad things to happen closer to the example of knife production or to that of giving a knife to the violent neighbor? Buying oil is important not only to the sellers and buyers but, of course, to many people in all parts of the world. For the present, at least, economies all over the world rely heavily on oil. In addition to this, it is not the case that the misuses of the oil revenues occur with necessity. We can reasonably assume that President Obiang and the other authoritarian leaders could do otherwise. The same applies to the people who use knives as killing instruments. Thus, it seems that the oil sale case is closer to the production of knives example. The producers of knives are not morally responsible for the stabbings carried out by the knife buyers in the same way that the buyers of oil are not responsible for the plight of, for instance, the population of Equatorial Guinea. Thus, the buyers of oil have no “outcome responsibility” as refined by David Miller.\textsuperscript{17} They are not morally responsible for the violations of property rights by Obiang and other authoritarian leaders in resource-rich countries. Similarly, the plight of the people is not brought about by the consumers in the same way that knife producers are not responsible for the suffering of those killed by knives.

Knife producers would be blameworthy if the suffering caused by their products was a necessary means to reach their ends. That is to say, if no suffering was caused by their products, they would use others in inappropriate ways as mere means to their ends. But this is not the case with regard to knife production. And I think that it also is not the case with regard to the plight of the people in the countries in question. The suffering of the people of Equatorial Guinea is not a necessary means to obtain the advantage linked with procuring oil. If the oil money was used in a completely different way (e.g., if it was invested in infrastructure projects, education, or health care), it would not change anything for the buyers. The plight of the people is not a necessary means to obtain an advantage. If it was, it would be morally wrong to deal with these regimes.

The producers of knives are not to be blamed for the bad consequences inflicted on people with their products, provided that the suffering is not a necessary means to their ends, the suffering is not intended or could only be avoided by imposing high costs on third parties. The knife producers would be blameworthy if they could produce knives that could not cause any suffering in a way that would not be costly. But they are not blameworthy if changing the knife production this way would be very costly. This is not a utilitarian principle of assigning moral responsibility. Rather, the idea is that for which we are morally responsible is, among other things, also a question of costs we have to incur by helping or protecting others. In other words, moral responsibility also depends on the costs one has to incur by fulfilling a duty.

This idea of reasonable costs affects the way we distribute the responsibilities to protect others from harm and to promote their well-being. We often assign moral responsibility according to what Wenar calls the “least cost prin-
ciple”: those responsible, for instance, for stopping suffering and killing with knives are the ones who can most easily do this; namely, those who buy the knives. And if they do not live up to their responsibilities, the responsibility will go to those who can prevent the killings with the lowest costs. Here, we would probably think of those who are paid for protecting people from not being hurt and stabbed (i.e., the police). And what if the police do not protect these rights? Who is then responsible for the protection of relevant rights? Probably the citizens in the sense that they have a duty to make sure that the police do what they are supposed to do.

Who is responsible for protecting the property rights of the citizens? The obvious answer is the state. It is the task of a state to protect the rights of its citizens. And again, one can ask: what if the state does not protect the property rights of the citizens? Who is then morally responsible to protect their property rights? Probably the citizens in the sense that they have a duty to make sure that the government does what it is supposed to do. Then again, in a cost-effective reflection, the citizens bear this responsibility only if the costs they incur by trying to change the government are not too severe. Thus, costs play a part in assigning moral responsibilities.

I think that this point of cost explains the difference between the case of not giving a knife to my violent neighbor and the case of giving up the production of knives.

**What Should Be Done?**

People’s property rights have to be protected. It is the duty of states to make sure that the property rights of their citizens are protected. But if the state does not live up to its duty and the people are not able to stop the violation of their property rights without incurring severe costs, as it is the case in, for example, Equatorial Guinea and the Democratic Republic of Congo, then the international community has to step in. The international community has what Miller calls the “remedial responsibility”: that is, the responsibility to protect people from violations of their rights. I think that the international community has this duty because we are faced here with violations of property rights which, in many cases, affect the rights of people to an adequate standard of living. Protecting the property rights of people therefore is a means to enable them to live a decent life. This is, I think, a matter of international concern. Thus, there is duty to intervene.

But how should this be done? What are the adequate measures to be taken by the international community? Let us consider some of the options:

1. The international companies could stop buying oil from President Obiang and his regime (this also applies, of course, to all authoritarian regimes). But it is unlikely that this will stop the property rights viola-
tions because other companies will step in and buy the oil.\(^2\)\(^0\) And as a consequence, stopping the buying of oil would not stop the plight of the people concerned. It is also unlikely that it would help prevent other human rights violations. Obiang killed and tortured his opponents long before the oil was discovered and exploited. It is reasonable to assume that he would do the same even if he ran out of the oil money.

2. What about international pressure on Obiang to allocate the oil revenues to the benefit of the resource owners? One could hope that international pressure could be helpful. Take, for instance, the already existing attempt to put these regimes under international pressure with the Extractive Industries Transparency Initiative (EITI).\(^2\)\(^1\) The EITI “aims to strengthen governance by improving transparency and accountability in the extractive sector.”\(^2\)\(^2\) The main aim of the EITI is to promote revenue transparency, the disclosure of payments and revenues in the oil business. There is a list of candidate countries that have expressed a commitment to implement the EITI criteria, among them astonishingly enough, Equatorial Guinea and the Democratic Republic of Congo. For instance, in May 2005 Equatorial Guinea promised to create a national commission in charge of implementing the EITI. It obtained candidate status from the EITI Board in February 2008 but, like many other candidate countries, did not succeed in becoming compliant on time. Equatorial Guinea requested an extension of the deadline for completing the EITI validation process, which was turned down by the EITI Board in April 2010.\(^2\)\(^3\) The country is no longer considered an EITI participating country. Its reputation might have suffered as a result. But Equatorial Guinea is not facing sanctions for not doing that to which it had committed. If it had been threatened with substantial sanctions, it would have had stronger incentives to change its behavior.\(^2\)\(^4\)

3. One way to make authoritarian regimes accountable to the property owners would be to establish sanctions for the misuse of the revenues of the sale of oil. Sanctions would be a much more effective response to the crimes committed in this context. People who violate property rights of others are prosecuted within states. There is no reason why the same should not hold at the international level. Massive violations of people’s property rights, particularly when they affect their fundamental rights, should be prosecuted. A new institution does not have to be created in order to establish such sanctions. The already existing International Criminal Court (ICC) could be used.\(^2\)\(^5\) The ICC is an independent international organization that prosecutes individuals for genocide, crimes against humanity, and war crimes. My suggestion here is that this court should extend its mandate to the massive violations of property rights that are occurring in the countries mentioned.
above. There is no reason—apart from probable political ones—why
the ICC should limit itself to prosecuting crimes against humanity,
genocide, and war crimes. Massive violations of property rights affect,
among other things, the subsistence right of peoples as it is stated in the
Universal Declaration of Human Rights. In its current structure, the
ICC signals to the perpetrators of crimes against humanity that they
will not get away with it. The same signal should be sent to those who
massively violate the property rights of others.26 It is our moral respon-
sibility to extend the ICC’s mandate. It will help fight the violations of
property rights and, thereby, could help the people of Equatorial
Guinea and other countries get what is their due and improve their sit-
uation. It is up to the member states of the ICC to extend its mandate.
If they do, it will be an important step toward improving prospects for
many poor people in resource-rich states.  

Notes
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dignity. [AU—Please provide titles and years of publication.]

1. International Monetary Fund, Country Report No. 09/102 (Washington, DC: IMF, 2009),
2. Ibid.
3. “Equatorial Guinea’s Election: Oh We Love You So—Even a Shamelessly
Rigged Election May Serve a Purpose,” The Economist, 3 December 2009, www
.economist.com/node/15022640.
5. Ibid., p. 15.
Pogge and Darrel Moellendorf, eds., Global Justice: Seminal Essays
7. As Collier and Venables put it with respect to all natural assets: “Not having
been built by human effort they do not naturally belong to anyone in particular”;
Paul Collier and Anthony J. Venables, “Managing the Exploitation of Natural Assets,”
Oxford Centre for the Analysis of Resource Rich Economies Paper No. 11
10. Thomas Pogge, World Poverty and Human Rights: Cosmopolitan Responsibilities
12. Ibid., p. 19.
13. Ibid., p. 12.

15. “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family”; Universal Declaration of Human Rights, adopted 10 December 1948, art. 25.


20. See also Wenar, “Property Rights and the Resource Curse.”

21. For a discussion of the EITI, see the article by Gilles Carbonnier, Fritz Brugger, and Jana Krause in this issue.


25. Of course, it does not necessarily have to be the ICC. Extending the mandate of the ICC is only a possible alternative of how sanctions for the violations of property rights could be established.

26. As Ayolo puts it: “The resource curse can be ameliorated by the global accountability mechanisms of the ICC, through my reinterpretation of crimes against humanity”; Aloyo, “Improving Global Accountability,” p. 15.