

Government should ensure it benefits from extractive resources

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The Extractive Industries Transparency Initiative (EITI), apparently the only renowned extractive industries transparency standard in the world today, came up for discussion at last week's breakfast debate in Dar es Salaam.

The initiative, in practical terms, involving reconciliation of payments (taxes, fees, royalties) that governments receive from oil, gas or mining companies in a particular fiscal year, has been globally lauded.

EITI is ostensibly geared to promote material information disclosure on the legal payments that extractive companies contribute to governments' revenues.

The new law entitled Tanzania Extractive Industry Transparency Act 2015 ensures that EITI implementation continues over the next years regardless of changes in government.

The legislation recognises the role of a multi-stakeholder group (MSG) to lead EITI implementation in Tanzania.

To ensure compliance with the EITI requirements on timely reporting, the legislation requires companies engaged in the exploitation or extraction of oil and mineral resources and relevant government agencies to provide timely and accurate information to Tanzania Extractive Industries Transparency Initiative's (TEITI)'s yearly publication.

Speaking at a breakfast debate on "One Year of the Tanzania Extractive Industry Transparency Initiative (TEITI) Act 2015: Status and Implementation, in Dar es Salaam over the weekend, the main presenter from TEITI Secretariat Alice Swai said since the enactment of the ACT, there is a huge improvement in the mining companies.

The debate was organised by Policy Forum in collaboration with HAKIRASILIMALI.

Swai mentioned the objectives of the Tanzania Extractive Industries - Transparency and Accountability-Act, 2015, as to legislate EITI in Tanzania, to provide legal mandate to TEITA Committee-that is to be an independent government entity, and to improve transparency in the management of extractive sector-a framework for disclosure.

Others are to strengthen the level of accountability to extractive companies

and government entities-that is the oversight role of MSG through its recommendations; ensuring compliance from reporting entities and adherence to EITI standards.

Swai further pointed out the key issues in the ACT as disclosure of concessions, contracts and licenses relating to extractive industry companies, and disclosure of beneficial ownership.

Others are disclosure of implementation of environmental management plans of the extractive industry companies, conducting investigation to discrepancy that exist in TEITI Report on payments and revenues accrued from the mining, oil, and gas operations; and the obligation to disclosure requirement both to extractive companies and government entities.

Commenting on a one year implementation of the ACT, Swai said that there has been reliability of data for extractive sector regarding payments, revenues, production, legal and fiscal regime.

She says the ACT has enabled the disclosure of names and shareholders who own shares in the mining, oil, and gas companies.

According to Swai, there is accessibility and reliability of data, preparation to disclosure of contracts, increase of public debates and reporting in conformity to the global EITI standard in February 2016.

However, Lawyers' Environmental Action Team (LEAT) Executive Director, Dr Rugemeleza Nshala, a discussant at the debate, challenged how the ACT was passed by the Parliament-saying it was passed in a supersonic speed.

Dr Nshala said that the most fundamental question that any country decided to extract its minerals or petroleum resources need to address foremost is who are the primary beneficial owners of those resources.

"If you make a decision to extract your minerals, a government of a day must make sure that, it is the primary beneficiary of those resources-not the companies or someone else," adding:

"The country must be the first one to receive the highest percentage of the profits, if it does not do so, then those resources will be of no use to the current and future generations."

He further noted that in the first place when EITI, started in Tanzania their reports were quite revealing. They were showing how much compa-

nies were paying their revenues to the country; but as time goes on there are some challenges emerging that need to be addressed.

Dr Nshala mentioned one of the challenges of TEITI ACT, is that it was not properly addressing the issue of transfer pricing in Tanzania.

"...the ACT, does not demand the mining companies to disclose all their affiliated companies."

He says the ACT is also not mentioning the sanctions that should be taken against companies engaging into transfer pricing abuses.

According to Nshala, the citizenry were not assisted to understand the profits made by the mining companies out of their mineral and petroleum resources.

For his part, Geita Gold Mine Vice President Simon Shao said that a one year of the TEITI Act 2015, has been implemented successfully.

He said: "It has regulated the environment, under which the mining companies, the government and other stakeholders are now obliged to report their revenues and ensure their report getting to the public."

He however, noted that there is a long way to go in terms of having the regulation in place and be popularized. And also popularize TEIT's report, to be well conceived by the public.

Shao also counseled the public not to depend on only one sector-the mining sector and say the government was not the primary beneficiary because it was not getting enough value.

"There is still a bigger room for linking the benefits from the mining sector with other sectors."

According to Shao, enough value is created by linkages between different sectors such as agriculture, transport, energy sub-sector and tourism.

"I strongly believe that the mining industry is creating substantial value for the government in terms of foreign currencies the mining industry is generating," he noted.

He further revealed that his company-the AshantiGold Mining alone employs around 3,600 people. This means by estimation over 36,000 people are benefiting from the organisation.

On corporate social responsibilities (CSR), Shao says that the traditional CSR of donations and all sorts of related things did not hold water.

The CSR, Shao strongly believes on is



Tanzania Extractive Industry Transparency Initiative (TEITI) Secretariat Representative Alice Swai speaks at a breakfast debate on "One Year of Act 2015: Status and implementation organised by Policy Forum, over the weekend in Dar es Salaam. Photo: Courtesy of Policy Forum

the one that centres at addressing the needs of the communities and the local government.

Following that need, Shao says, GGM decided to invest heavily in the people's livelihoods by creating small and medium enterprises (SMEs), including tailoring for women, bricks making and welding and fabrication for the youth.

GGM has also invested in rice farming where over 3,000 households are benefiting in an area of over 600 hectares, among others.

Another participant, Amani Mhina advised TEITI secretariat that if it really wanted the report to serve, be resourceful and well understandable by ordinary Tanzanians who are the owners of the extractive industry, they should translate it into Kiswahili.

"This is a challenge, we are speaking about EITI ACT which is going to be a public document-it is in English version up to now. This document should be given to the citizens who are the owners of the resources. There is need to address it," he explained.

Mhina added: "The biggest challenge is that we started the law without the policy. It makes very difficult even to ourselves to say whether the law is addressing the challenge."

According to Mhina, there are a lot of assumptions of what it should and shouldn't be.

"Ideally the policy sets the overworking objectives, and gives clarity to what the law intends to achieve," he said.

Another weakness of the law, Mhina notes is that it is addressing the minister in every mention. It gives most of the time obligation to the minister.

MSG has very limited power in terms of jurisdiction and this poses the question on the independence of MSG.

Mhina further notes that the intention of having the TEITI ACT, was the initiatives to improve the management of the natural resources.

He says: "Ideally there are many reports, but are not discussed by the public to know what the natural resources are doing for the country."

Another participant, Conrad Masako advised that in order for the Members of Parliament to make informed laws, they should first be informed about the laws they are making because most of them did not have law profession background.

Failure to do so would make them pass articles of the law, which even they themselves are not aware of because the extractive industry has its own specialisation, he said.

Masako also wondered whether the ACT had responded to the demand of transparent in the extractive industry. "If no, then this ACT is questionable."

Other findings show that the government joined the EITI as part of wider reform efforts to make the sector more competitive and maximise the benefits from mining.

TEITI is progressively becoming visible and significant in its undertaking of strengthening transparency in the management of Tanzania's extractive industry.

EITI objectives are increasingly recognized and included in the government policy statements, such as the Natural Gas Policy-2013 and in the development of Local Content Policy-2014 (section 3.3 on transparency in procurement process undertaken by contractors and sub-contractors).

This indicates the importance of putting transparency and accountability at the core of administration of extractive industries. The implementation of activities in the work plan aims to assist TEITI in deepening transparency and accountability in extractives and mainstreaming EITI in public sector reforms.

The government continued to implement various reforms aimed at improving public sector service delivery

and prudent use of public resources.

Major progresses were made in putting in place new laws governing the exploitation of oil and natural gas and revenue management from in Tanzania.

The laws generated significant public discussions, in part because of increased expectations among citizens over potential revenues from natural gas discoveries, and in part because some felt that there wasn't enough time allocated for discussion in the parliament.

In 2015 Tanzania enacted an EITI law that requires all extractive companies in the country to disclose their beneficial owners.

Tanzania is Africa's fourth largest gold producer and accounts for 1.3 per cent of total global production. Tanzania is also the only country in the world which produces tanzanite.

Gas production is concentrated in the south in the Songo Songo and Mnazi Bay fields. The extractive industries contribute approximately 12 per cent of total government revenue in Tanzania. The extractive sector revenues increased by 28 per cent from USD 602 million in 2013 to USD 754 million in 2014.

Tanzania EITI (TEITI) aims to maximise the monetary, social, and environmental value of mining and more recently gas, by deepening extractives transparency and improving revenue collection.

Tanzania was accepted as an EITI implementing country by the EITI International Board on 16 February 2009. Tanzania is one the countries in Africa which is blessed with a number of natural resources and minerals of different kinds.

To enable the country benefit from the minerals, there is need to have machinery that ensures that every single cent that accrues from the minerals benefits all Tanzanians.