HakiRasilimali

Transparency & Accountability for the Extractive Industry

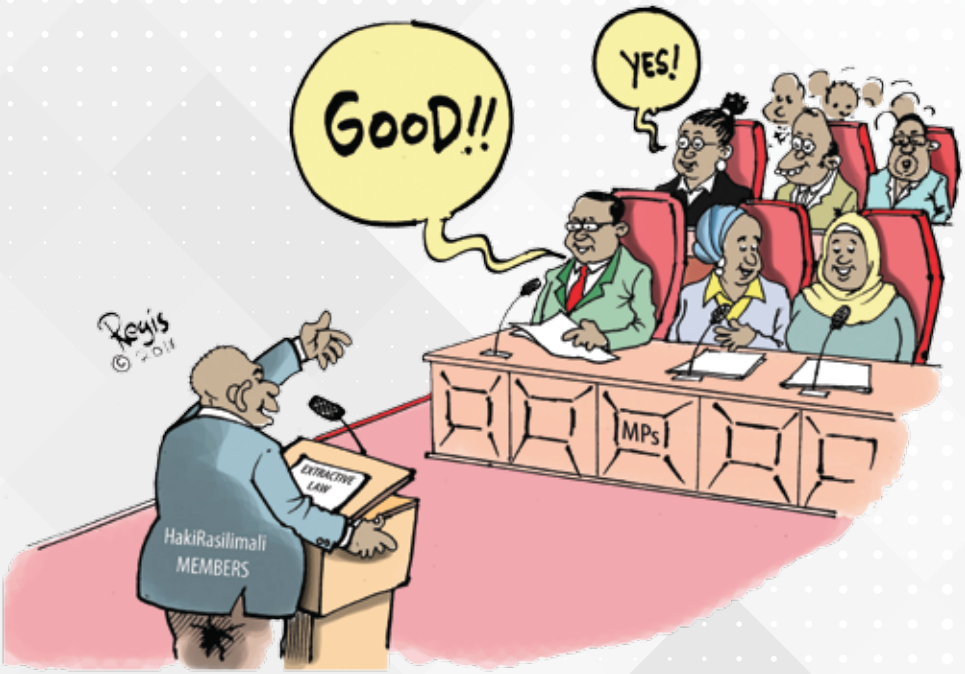
HakiRasilimali/PWYP

In the Library

Volume 1

Publish What You Pay Tanzania

TO ADVOCATE FOR THE EFFECTIVE FORMULATION AND REFORMS
ON POLICIES AND LAWS WHICH GOVERN THE EXTRACTIVE INDUSTRIES IN TANZANIA



Acknowledgements

HakiRasilimali wishes to express its utmost gratitude to every individual and organizations who, in one way or another made this publication possible. First and foremost, HakiRasilimali appreciates the efforts, the dedication and the willingness of the experts Advocate George Mollel, Amani Mhinda, Mosses Kulaba, Semkae Kilonzo, Donald Kasongi and Ms. Naemy Silayo to undertake analysis of different topics in this publication.

HakiRasilimali also wishes to express its gratitude for the support given by both our members, technical partners, supporters, report validators - extractive companies, government institutions and Civil Society Organizations at large.

It is our sincere expectation that this publication will enhance information sharing as a means of broadening understanding of issues in relation to mining oil and gas in Tanzania. But also increase stakeholders participation to influence debates and decisions in the sector.

About HakiRasilimali - PWYP

HakiRasilimali is a platform of Civil Society Organizations (CSOs) incorporated as a non-profit company under the Companies Act of 2002, working on strategic issues around minerals, oil and gas extraction in Tanzania. The platform in emerged since 2010from online "Knowledge Community of Practitioners" in the extractive industries to its current status as a joint learning and advocacy platform at the national level.

The group started engaging in extractive advocacy in an ad-hoc manner, albeit with some success. Taking into account the lessons learnt since 2010, the group envisages to utilize the available potential to become more effective in influencing extractive industries related policies, laws and practices in the country; by adopting a more strategic and proactive approach. This involves building a formal coordination mechanism for strategic and improved advocacy in extractive industries.

Affiliation

HakiRasilimali is affiliated to Publish What You Pay (PWYP), a global membership-based coalition of civil society organizations (CSOs) in over forty countries united in their call for an open and accountable extractive sector, so that oil, gas and mining revenues improve the lives of women, men and youth in resource-rich countries and that extraction is carried out in a responsible manner that benefits countries and their citizens. HakiRasilimali membership to PWYP is an institutional commitment to global transparency agenda.

SECTION ONE

POST ANALYSIS OF THE MINISTRIES OF ENERGY AND MINERALS BUDGET 2018/19

In Collaboration with

policy forum

1.1 Extractives for Industrialisation and Development: Post Analysis of the 2018/19 Budget for the Ministries of Energy & Minerals

Introduction

The extractive sector (mining, oil and gas) is one of the fastest growing sectors in Tanzania. Its economic growth went sharply up from 11.5% in 2016 to 17.5% in 2017. The mining sector is expected to contribute 10% of Gross Domestic Product (GDP) by 20251. This growth is expected to catalyse economic growth as envisioned in the Five-Year Development Plan (2016/17 – 2020/21) with a catchy theme- "Nurturing Industrialization for Economic Transformation and Human Development"

Despite the said contribution, and according to the 2018/19 Budget Speech by the Minister for Mining, Hon. Angela Kairuki, the contribution of the mining sector to the GDP is less than 5% in 2017.

The sector is said to have enormous potential to contribute to Tanzania's industrialisation agenda as a means of realising positive changes for society ranging from increased employment opportunities at the first level to improved quality of life at a longer term. For this to happen, concerted efforts are needed especially in investing adequately in areas that are likely and have direct bearing on industrialisation.

Therefore, this brief document analyses the performance of the two ministries (Energy and Minerals) for the financial year 2017/18 to capture the extent at which the planned activities were executed and using this information to assess the likelihood of the two ministries achieving the 2018/19 plans. The analysis relies mainly on the publicly available information including the narrative to the 2018/19 budget of the two ministries, budget speeches of the two ministries, audit reports by the Controller and Auditor General and performance reports by the Minister of Finance and Planning.

An Overview of the National Budget and the Budget for the Ministry of Energy and Minerals

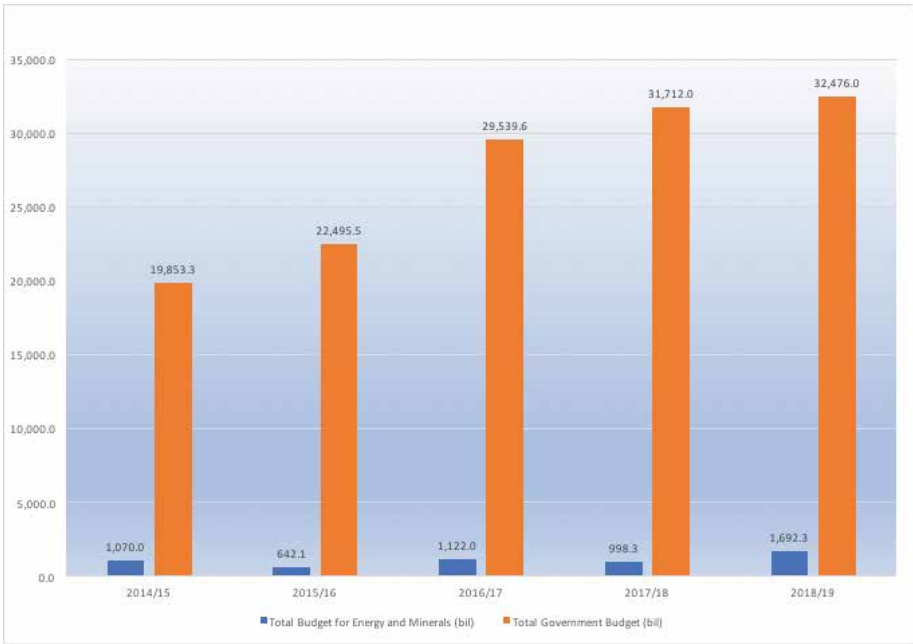
Between 2014/15 and 2018/19, the national budget has been slightly increasing at the rate of 3% to 12% except for 2016/17 where there was a significant increase from Tanzanian shillings (TZS) 22.5 trillion in 2015/16 to TZS 29.5 trillion in 2016/17 (equivalent to 24% increase). The budget for the Ministry of Energy and Minerals during the same period (2014/15 and 2018/19) has been taking between 2.9% and 5.4% of the national budget; with 2015/16 marking the lowest share of 2.9% and 2014/15 marking the highest share of 5.4% in the total government budget.

During the 2017/18 financial year, a total of TZS 998.3 billion was allocated for the budget of the then Ministry of Energy and Minerals.[1] Interestingly, out of this budget, 94% (Tshs 938.6 billion) was set for development expenditure and only 6% (Tshs 59.7 billion) was set for recurrent expenditure. Further breakdown of this budget indicates that of the Tshs 998.3 billion that was allocated for the Ministry of Energy and Minerals, Ths 945.9 billion (about 95%) was for the energy sub sector and only Tshs 52.4 billion (5%) was allocated for the minerals sub sector.

While the 2018/19 budget for the two sectors sees an increase of 42% from Tshs 998.3 billion in 2017/18 to Tshs 1,692.3 billion in 2018/19, the share of the sector has declined from 5.2% to 3.4% of the total budget. See figure 1 below for more illustration.

[1]Note that by this time the Ministry of Energy and Minerals was a single entity under Vote 58. It was later split to form the Ministry of Energy under Vote 58; and the Ministry of Minerals under Vote 100.

Figure 1: Comparison of the Energy and Minerals Budget and the National Budget from 2014/15 to 2018/19



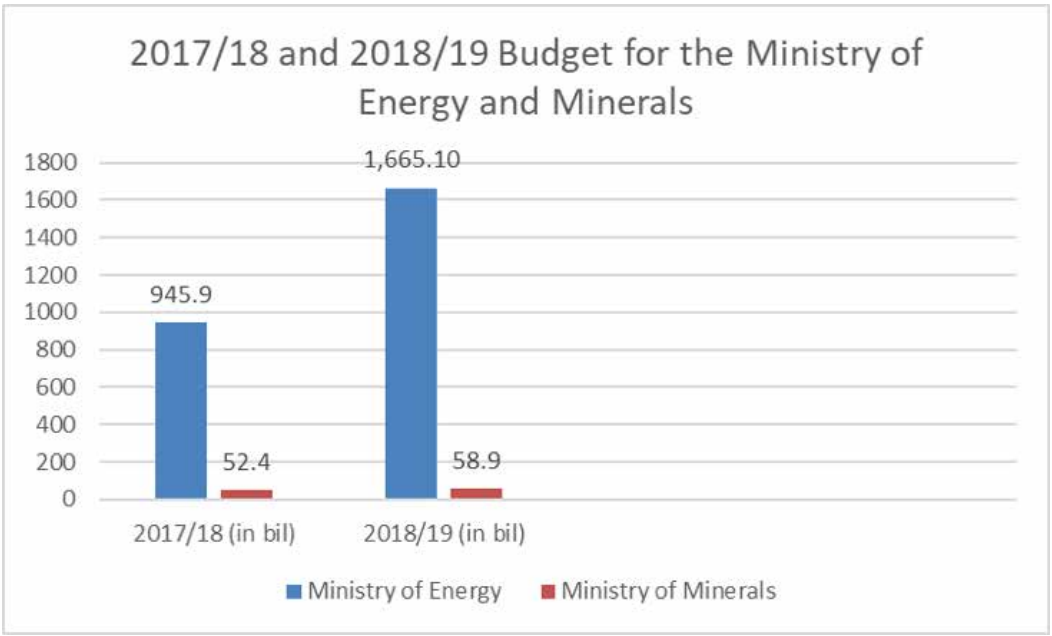
Source: Tanzanian Government Budget Books

Ministry of Minerals

The Tanzania's Development Vision 2025 prospects that the mining sector will contribute at least 10% of the Gross Domestic Product (GDP) by 2025. During the year 2017 the contribution of the mining sector to the GDP was 4.8%.

During the financial year 2017/18, the budget for the Ministry of Energy and Minerals (MEM) was TZS 998.3 billion of which only TZS 52.4 billion was allocated for the mining sub sector. This is equivalent to only 5.2% of the total budget for the Ministry, leaving 94.8% for the energy sub sector. See figure 2.

Figure 2: 2017/18 and 2018/19 Budget for the Ministry of Energy and Minerals



Further breakdown of the TZS 52.4 billion allocated to the sub sector Minerals indicates that TZS 21.8 billion (41.5%) was set for development expenditure and TZS 30.7 billion (58.5) was for recurrent expenditure. Of the TZS 30.7 billion for recurrent expenditure, TZS 13.9 billion (45.4%) was for Other Charges (OC) while TZS 16.7 (54.6%) billion was for Personnel Emolument (PE).

What were the Development Funds set to achieve in 2017/18?

During the financial year 2017/18, the Ministry MEM had planned to implement the following key development projects;

1. Sustainable Management and Maintenance of Mineral Resources Project (SMMRP) with an allocation of TZS 8.9 billion. This project is meant to strengthen the government capacity to manage the mineral sector; to improve the socioeconomic impact of large-scale and small-scale mining for Tanzania; and to enhance private local and foreign investments.
2. Regional Mining Development Project (Construction of Ministry' Building) with an allocation of TZS 1.5 billion. This involved the construction of offices and infrastructure in several regions such as in Arusha and Dodoma.
3. Kiwira Coal Mines and 200 MW Power Plant, with an allocation of TZS 10 billion. This is a partnership between STAMICO and private investor. STAMICO is partly funded by the government and with the commercial nature of their operations, they are allowed to get more private financing for the investment.
4. Strengthening the Tanzania Extractive Industries Transparency Initiative (TEITI), with an allocation of TZS 1.4 billion.

Were the Funds released?

Even though the total budget for the Minerals sub sector was quite minimal during the financial year 2017/18, until March 31st, 2018, the Ministry had only received TZS 19.2 billion which is equivalent to 36.6% of the TZS 52.4 billion allocated for the same period. Of the released amount (TZS 19.2 billion), only TZS 0.84 billion was for development expenditure, representing 3.8% of the TZS 21.8 billion allocated for development expenditures.

It is important to note that the 3.8% of the development funds released until March 2018 was from Development Partners which was geared towards strengthening the Tanzania Extractive Industry Transparency Initiative (TEITI). In other words, the Government did not release funds for development projects from our internal sources. But also, by at least March 2018 the anticipated projects were not implemented by the Ministry.

Interestingly, the ministry in the financial year 2017/18 had planned to collect TZS 194.6 billion. Until March 2018, the Ministry had already surpassed this revenue collection target by 115.6%. The Ministry had collected TZS 200.7 billion, with royalties contributing about TZS 225 billion. This is a remarkable achievement on the part of the Ministry and should be celebrated. However, it is suggested that disbursement to this Ministry to be improved so that the officials are motivated to push further in strengthening revenue collection.

What are the priorities for 2018/19?

In the financial year 2018/19, the Ministry of Minerals after being separated from the Ministry of Energy, sees an increase of almost 9% of its budget allocation from TZS 52.4 billion in 2017/18 to TZS 58.9 billion in 2018/19. Development expenditure takes 33.3% of the total budget while recurrent expenditure takes 66.7% of it.

While the overall budget has increased, the increase is reflected only in the recurrent budget which has increased from TZS 30.7 billion in 2017/18 to TZS 39.3 billion in 2018/19. Development budget on the other hand has decreased from TZS 21.8 billion in 2017/18 to TZS 19.6 billion in 2018/19.

The following are some of the priorities for 2018/19;

1. To improve revenue collection from the sub sector,
2. Enhancing the skills of small scale miners,
3. To encourage value addition activities in the mining sub sector,
4. Encouraging investment in the strategic projects in the sub sector, and
5. Improving the involvement of the local population in the sub sector.

Ministry of energy

The vision 2025 and the presidential orders issued at various spaces such as the urge to improve in the energy supply, increase of industries from gas supply and the fighting against corruption, called for the new Ministry of Energy to have its financial budget for the year 2018/19 be prioritised. Adequate and reliable supply of power has the potential of contributing to both human development and an industrial economy. The Ministry of Energy forms one of the critical ministries that are directly impacting on the realization of an industrial economy envisioned in the development plan. Human development also requires seeing people's lives improved through amongst others, employment opportunities and accessing reliable supply of power for domestic uses.

Energy supply and demand

While domestic and industrial demand for electricity stands at 3,000 MW, the existing plants can only produce about 1,425 MW which is about 48% of the demand3. For the country therefore to be able to realize the anticipated industrial economy and improved livelihood of the people, it is important that adequate investment is put in the energy sector.

In the 2017/18 budget, the Ministry of Energy had the lion's share in the budget as compared to its sister sector Minerals. Of the TZS 998.3 billion that was allocated for the Ministry of Energy and Minerals, the Energy sub sector enjoyed about 95% of the whole budget, leaving the rest which was quite insignificant to the minerals sub sector.

The Ministry of Energy was allocated TZS 945.9 billion which was 94.7% of the total budget allocated for the Ministry of Energy and Minerals in 2017/18. Of the TZS 945.9 billion allocated for the Ministry of Energy, TZS 916.8 billion was for development expenditure, taking about 96.9% of the budget for the Ministry and leaving only TZS 29.0 billion (equivalent to 3.1%) for recurrent expenditure.

Further breakdown of the recurrent expenditure indicates that of the TZS 29.0 billion allocated, 14.9 billion was for Other Charges (OC) and TZS 14.1 billion was for Personnel Emolument (PE). The fact that most of the funds have been allocated for development activities is a commendable move as it is clearly understood that these funds will directly benefit the citizens.

What were the Funds set to achieve in the Energy sub sector in 2017/18?

During the financial year 2017/18, the Ministry of Energy had planned to do the following;

1. To improve production, transportation and distribution of electricity in the country,
2. To construct hydroelectric power project at Rufiji river,
3. Hastening rural electrification,
4. To construct a major oil pipeline from Hoima, Uganda to Tanga port, Tanzania, and
5. Continue strengthening the development of alternative sources of energy.

Were the allocated Funds released?

Unlike the Ministry of Minerals which had received only 36.6% of its total budget for 2017/18 by March 2018, the Ministry of Energy during the same period had received TZS 446.5 billion (equivalent to 47.2% of the allocated budget of TZS 945.9 billion.

It is encouraging to see that the government disbursed from its sources funds to finance development projects. Until April 2018, of the TZS 446.5 billion disbursed, TZS 424.9 billion (95.2%) was for development projects and the remaining TZS 21.6 billion (4.8%) was for recurrent expenditure.

More interestingly, of the TZS 424.9 billion disbursed for development projects, 97.2% which is TZS 413 billion was from local sources and only 2.8% (about TZS 11.8 billion) was from foreign sources.

Nonetheless, for both the minerals sub sector and energy sub sector, disbursement of funds is not encouraging. Not one sub sector has received at least half of its budget by March 2018.

NB: Despite the fact that the Public expects more contribution from oil, gas and mining, the budget allocations under this financial year indicate inadequate investments thus a challenge in managing the growing expectations. This is not a peculiar case for only sub sectors-minerals and Energy, several other sectors such as agriculture did not receive in full.

What are the priorities for 2018/19?

The budget for the Ministry of Energy has increased significantly from TZS 916.8 billion in 2017/18 to TZS 1,692.3 billion in 2018/19, representing an increase of almost 85%. Development expenditure alone has gone up by 81.6% from TZS 916.8 billion in 2017/18 to TZS 1,665.1 billion in 2018/19. Recurrent expenditure on the other hand has decreased by 6.6% from TZS 29.0 billion in 2017/18 to TZS 27.1 billion in 2018/19.

The following are some of the priority areas for the year 2018/19;

1. To improve and ensure reliable supply of power in the country,
2. To improve the infrastructure for transporting and distributing electricity, and
3. Construction of the pipeline from Hoima, Uganda to Tanga port.

Key areas to be prioritised:

1. Areas warranting law reforms: To bring meaningful plan for the implementation of the two budgets, the Ministry of Energy and Ministry of Minerals need to focus on the extractive Industries (Transparency and Accountability) Act, 2015. Transparency and accountability in the sector empowers citizens the opportunity to question the government but also reduce corruption and wastage. The Act needs to be;

   a. Operationalized - so far it is two years since its enactment, but no single contract has been uploaded on website for public scrutiny;

   b. Revised – to reflect open contracting rather than simply transparency of contracts, the law should put a mechanism for citizen scrutiny from the early stages of negotiation to contracting and contract implementation

2. The Oil and Gas Revenue Management Act, 2015, its two years but no single cent has been saved so far due to the provision which requires saving to start only if oil and gas revenues surpass 3% of the GDP, this may hinder saving for future generation. A new formula should be formulated to allow saving as early as possible. For instance, revenues could be invested in long term projects such as Education, Health and Infrastructure to allow equal benefits of the current generation without compromising the needs of the future generation.

3. Institutional capacity strengthening: The government through the laws and various reforms has established several institutions to support the mining sector in all areas. However, most of these institutions do not enjoy enough government subsidies or shares to build their capacity. As such, the institutions are unable to undertake research, capacity building to its staff and so on. Therefore, efforts should be made to address the challenge of capacity.

Key recommendations

1. Measures to improve revenue collection in the energy and minerals sector should go hand in hand with timely disbursement of resources to these institutions.
2. Since the Mining sector collects significant revenues, it is important that the government disburse funds in time to implement development projects in the sector and ensure reliable supply of power for both domestic and commercial uses.
3. There should be strategic investment in small scale mining since their contribution to the sector is significant .
4. Special attention should be given to women and youth engaged in small scale mining.
5. Enhance the participation of the local population in the extractive sector through adequate funding for the implementation of the local content strategy. This fund can be used for capacity building of local businesses, and supply chain development
6. Ensure policy harmonisation and implementation of the same.

SECTION TWO

ANALYSIS OF THE EXTRACTIVE SECTOR REGULATIONS 2018

ANALYSIS OF THE MINING (MINERAL RIGHTS) REGULATIONS, 2018

OPPORTUNITIES AND CHALLENGES UNDER THE REGULATIONS

In Collaboration with

Tanganyika Law Society

SIRD

2.1.1. The Mining (Mineral Rights) Regulation, 2018

POLICY BRIEF

1.0 Executive Summary

In July 2017, Tanzania invoked the United Nations General Assembly's Resolution 1803 (XVIII) of 14 December 1962 . Although the Resolution declared that all nations have a right to "permanent sovereignty over their natural wealth and resources", which "must be exercised in the interest of their national development and of the well-being of the people", it has no binding force of its own.

The Tanzania parliament passed three new laws to enforce the sovereignty Tanzania has over its natural resources namely Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017, The Natural Wealth and Resources (Permanent Sovereignty) Act, 2017 and Miscellaneous Amendments Act, amending Mining Act, 2010.

In early 2018, three regulations were gazetted to operationalize these laws leading to a new era in Tanzania Mineral resource governance. These includes: The Mineral rights regulations, Beneficiation regulations and the Local content regulations.

The Mining (Mineral Rights) Regulations of 2018 were made under Section 112 of the Mining Act 2010 by the Minister of Minerals. The Regulations provide for the procedure and manner of obtaining and obligations for different types of mining rights.

2.0 Mining (Mineral Rights) Regulations of 2018 provides for:

- Defines specific categories of mineral rights
- Procedures for renewal of such mineral right and license,
- Prescribing the shape and limits of a mining areas,
- Limiting the size of each mining area depending on the mining license and minerals,
- The Regulations also impose an obligation to holders of prospecting mining license to keep full and proper accounts of all expenditure incurred along with the required receipts.
- Prescribe on how to demarcate and peg a mining area for a mining license
- Setting minimum limit of the amount to be expended in mineral prospecting per square kilo meter
- Suspension or partial suspension and resuming of operations for a primary mining license,
- Establishes and composes Allocation Committees for reserved areas
- Compulsorily requires holders of Primary Mining Licenses in Reserved Areas to put in place mechanisms that will ensure that they give a reasonable share of minerals with people living in close vicinity to the designated area,
- Requires applicants of a Primary Mining License to obtain a written consent from the lawful occupier/owner of the land in a designated area.
- Sets the lifespan of a Primary Mining License to be seven years,
- Requires applicants for prospecting licenses to state the minerals they are seeking in their applications.
- Cancels all retention licenses issued before these Regulations came into force.

3.0 Policy Gaps

a. The Composition of the Allocation Committee not well Representative and Gender Insensitive.

b. The reporting and information sharing requirement of mineral holders does not require the furnishing of information that will assist in ensuring transparency and accountability as well as increase host community engagement and opportunities in small and medium size mines.

c. The Regulations Does Not State How Host Community will get a Share of Minerals from a Primary License Holder in a Designated Area

d. The Regulations did not address the long-standing complaint of small and artisanal miners of establishing a mechanism of empowering them to move from artisanal and small-scale minors. These Regulations ought to have put a mechanism where ASM could partner with bigger investors who possess requisite capital, technical know-how and machinery.

e. Does not address how Artisanal and Small-Scale Miners (ASM) can engage in pros pecting of minerals. The prospecting licence for the Scale prospectors was removed in the 2010 Mining Act.

f. There is need for special treatment, recognition and empowerment of small scale miners by providing for services in their designated areas. The Regulations assume that by designating special areas for primary mining licenses then problems of ASM will be addressed, this has not been the case and it has not worked.

g. Fees payable for Primary Mining Licence need to be revisited as they are could deter rent to formalization of ASM. There has been complaints on the high fees and demands put upon PML licence holders.

h. An independent and efficient conflict resolving mechanism has not been into place by the Regulations despite stakeholders' call for the same. It was expected that the regulations would put in place an independent conflict handling mechanism apart from the current one which does not meet the test of natural justice.

i. The Regulations do not expound the issue of compensation. Apart from the requirement that applicant for mineral rights in designated areas to seek consent of lawful occupiers of land that is being sought for mineral extraction no further guidance is given to that regard to ensure fair and prompt compensation, resettlement and relocation is accorded to affected lawful land occupiers.

h. Government commercial aspirations makes it a key player within the sector. The regulations are silent about operations of State Owned Enterprise including STAMICO and NDC to allow for an open and competitive sector.

Recommendations

- Regulations and they have failed to include or address longstanding complaints of stakeholders especially on prospecting of minerals.
- For sustainable and productive sector, investment in prospecting and geological information is clearly important.
- Stakeholder consultation need to be undertaken to address stakeholders' complaints and views as well as to reflect the spirit of the current regime with regard to the extractive industry.
- Public awareness campaign be enhanced, to respond to the noted state of low public awareness in the community, during research and consultations, the low awareness was even noted among the ASM and communities living around the mining operations.
- There is need for independent dispute resolution mechanism to increase trust and fairness in the sector. The current situation puts the Mining commission to play dual role of administering and playing judicial roles.

2.1.2. Analysis of The Mining (Mineral Rights) Regulations, 2018; Opportunities and Challenges

Introduction

These Regulations replace the Mining (Mineral Rights) Regulations, 2010 as a result of some major amendment on the Mining Act, 2010 through different amendments including the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015, the Finance Act, 2017 and the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017. All these amendments and the enactment of these Regulation are a result of the government shift in its approach in handling the extractive sector driving towards securing more benefits to the country and citizens as against the previous dispensation which was more investor friendly. However, though these Regulations were made to reflect the changes made to the Mining Law, they do not offer significant changes from those of 2010.

An Anatomy of the Regulations

The Mining (Mineral Rights) Regulations of 2018 were made under Section 112 of the Mining Act 2010 by the Minister of Minerals. These Regulations were made to provide for the procedure and manner of obtaining different types of mining licenses as provided for under Part IV of the Mining Act 2010 as revised from time to time.

These Regulations are divided into three Parts and do also comprise two schedules which provide for different types of application fees and rents as well as prescribed Forms and certificates used in applying and in awarding/responding to such applications.

Part One of the Regulations provides for the manner the Regulations should be cited and the interpretation to few but important words and phrases. Part Two and Three provides for other details including;

- How to apply for mineral rights from Division A to D and a Primary Mining License, the requirements for such application and how to apply for a renewal of such mineral right and license,
- Prescribing the shape and limits of a mining areas,
- Limiting the size of each mining area depending on the mining license and minerals,
- Prescribe on how to demarcate and peg a mining area for a mining license falling under Division A to C,
- Setting minimum limit of the amount to be expended in mineral prospecting per square kilo meter,
- Suspension or partial suspension and resuming of operations for a primary mining license,
- Amalgamating primary mining licenses for a holder who has more than one license in a contiguous area despite that such amalgamation will exceed the prescribed primary mining license area,
- Requires a mineral right holder to compulsorily file annual report,
- Establishes and composes Allocation Committees for reserved areas and provides for the qualifications of applicants,
- Elaborates on how reserved areas should be maintained,
- Compulsorily requires holders of Primary Mining Licenses in Reserved Areas to put in place mechanisms that will ensure that they give a reasonable share of minerals with people living in close vicinity to the designated area,
- Requires applicants of a Primary Mining License to obtain a written consent from the lawful occupier/ owner of the land in a designated area,
- Provides how to handle overlapping applications,
- Sets the lifespan of a Primary Mining License to be seven years,
- Requires applicants for prospecting licenses to state the minerals they are seeking in their applications and,

- Cancels all retention licenses issued before these Regulations came into force.

The Schedules provide for different fees and rents as well as application forms and certificates.

Opportunities

As indicated earlier, these Regulations were formulated to reflect the spirit and operationalize the changes that were brought by the several amendments to the Mining Act, 2010. These Regulations came with numerous positive changes including;

a. Maintaining Geographical Limits and Demarcations to Mining Areas and Providing for the Punishment on violation

While all geographical size of the land for different minerals was maintained, the two trenches required to be at each corner of a mining license area was changed from not less than 3 meters in length to not less than 1 meter. Moreover, though the Regulations still allow the holder of a Mineral Right to erect other marks where it is not practicable to follow the Regulations, the Mineral Right Holder is required to seek the consent of the Commission before erecting such other marks. Under the repealed Regulations, the right holder could be not required to seek consent.

While the repealed Regulation did not provide for the punishment when a mineral right holder does not comply with demarcations, these Regulations impose a fine of Twenty Million Tanzanian Shillings. This is a good development as it provides for the punishment and thus ensures strict adherence to the set/required demarcations.

b. Maintaining Expenditure Limits to Mineral Prospecting

Despite the lapse of 8 years since the passing of the Mining (Mineral Rights) Regulations, 2010 the Ministry of Minerals maintained the minimum expenditure limits in the 2018 Regulations.

c. Allowing Amalgamation of Primary Mining Licenses

The Regulations allows a holder of two or more neighboring Primary Mining Licenses to apply for amalgamation and once that is granted then a new mining license will be issued for the whole area despite the fact that they may be exceeding the maximum limit area for such a license. This ease the operations of the mineral right holder and adds more value to the right held. This can enable the mineral right holder to secure bigger loan facilities as well as enter into more serious and bigger joint ventures for the operations of the mine.

d. Prescribing Relevant Information to be Included in Annual Reports

Like its predecessor, these Regulations require that a holder of a Primary Mining License to furnish a report every year containing the following Information;

- Name of the License Holder,
- Date when license was issued and license number,
- Nature of operations,
- Number of persons employed that year,
- Amount of wages paid for the operations of that mine,
- Nature of machinery and plants brought in and out of the mine,
- The kind and quality of minerals obtained and the way they were disposed,
- The number of accidents and death that occurred at the mine,

This is an important requirement which indeed should be maintained and if possible expounded to require more information that will assist in ensuring transparency and accountability as well as increase host community engagement and opportunities in small and medium size mines.

e. Establishing Multi Stakeholder Allocation Committees to Allocate Mineral Rights in Reserved Areas

The Regulations have maintained the a multi stakeholder Allocation Committee which is composed of;

- The District Commissioner,
- The Resident Mines Officer,
- The Member of Parliament for that area,
- The Chairman of the Town/District /Municipal/City Council whoever is applicable,
- The Executive Director of the Town/District/Municipal/City Council whoever is applicable,
- Two persons appointed by the Regional Administrative Council.

This composition comprises of representatives of the Ministry of Minerals, Local Government Authorities, a representative of the Executive and two people who may come from anywhere as their appointment does not restrict where they should come from. This composition ensures that different interest is considered when allocating mineral rights in reserved areas.

f. Requiring Mineral Rights Holders in Reserved Areas to Share Minerals with Host Community

In furthering the rights of the community, The Regulations require that, when considering to allocate a Primary Mining License to an eligible applicant, the Allocation Committee to consider among other things, the need to ensure that people living in the vicinity of the designated area secure a reasonable share of the mineral resources discovered in the designated area. This is an important consideration as it calls upon the applicant to state how he/she will ensure that the host community benefits from the minerals found on their land. Requiring Written Consent of Lawful Occupiers of Land on Reserved Land.

g. Provides for Open and Competitive Bidding in the Case of Simultaneous Applications on an Overlapping Areas

Just like the 2010 Regulations, these Regulations require the Commission to resort into bidding incase of simultaneous application on an overlapping area. The Regulations require the Commission to ask the applicants to submit their bids on a particular date stating the amount that they are ready to pay as premium and how they will pay such a premium within a period not exceeding six months. Moreover, after submission of the bids the Commission is required to open them publically in the presence of the bidders. The highest bidder is supposed to be awarded the mineral right and incase of equal bids then the Commission will award the right to the bidder with the best payment schedule. This bidding arrangement ensures that the government secures the best offer and that it deprives the process with avenues of corruption and abuse of power.

Gaps and Challenges

i. The Composition of the Allocation Committee not well Representative and Gender Insensitive.

Though the composition of the Allocation Committee comprises of people from different government institutions and has room for two persons out or within the government circle, the Regulations have not put a mechanism which ensures that there is representation from out of the government at all times.

Moreover, the Regulations do not put a requirement for gender balance or even inclusion or consideration. This does not augur well with the contemporary discourse where civilian inclusion and gender balance is an important consideration in the formation of institutions.

ii. Information Required to be Reported does not include other Relevant Information

The reporting and information sharing requirement of mineral holders does not require the furnishing of information that will assist in ensuring transparency and accountability as well as increase host community engagement and opportunities in small and medium size mines.

iii. The Regulations Does Not State How Host Community will get a Share of Minerals from a Primary License Holder in a Designated Area

However, the Regulations do not make this a mandatory requirement and it does not further state how the host community will get/secure the mineral resources, is it by purchase, will they get it through sharing or in the form of a levy given to the local government authority.

iv. Not Addressing Long Standing Complaints in Sector

As the Regulations are more or less the same as the repealed 2010 Regulations, they have not addressed pressing issues which mineral license holders have for long asked to be resolved. Such issues include;

- Not prescribing special areas for Artisanal and Small-Scale Miners-ASM who need special treatment, recognition and empowerment. The Regulations assume that by designating special areas for primary mining licenses then problems of ASM will be addressed, this has not been the case and it has not worked and so the 2018 Mineral Right Regulations ought to have provided for this as a way of boosting artisanal and scale miners as such is the spirit of the fifth administration.

- The fees charged in 2010 despite depreciation and other monetary factors have not changed. Moreover, artisanal and small-scale minors have for all the years complained that the fees provided are not friendly to them and them

- do not consider what they get. It was expected that these Regulations would consider their cry and accommodate it as doing so would encourage more artisanal and small-scale minors to formalize their operations.

- An independent and efficient conflict resolving mechanism has not been into place by the Regulations despite stakeholders' call for the same. It was expected that the regulations would put in place an independent conflict handling mechanism apart from the current one which does not meet the test of natural justice.

- The Regulations do not expound the issue of compensation. Apart from the requirement that applicant for mineral rights in designated areas to seek consent of lawful occupiers of land that is being sought for mineral extraction no further guidance is given to that regard to ensure fair and prompt compensation, resettlement and relocation is accorded to affected lawful land occupiers.

- The Regulations did not address the long-standing complaint of small and artisanal miners of establishing a mechanism of empowering them to move from artisanal and small-scale minors. These Regulations ought to have put a mechanism where ASM could partner with bigger investors who possess requisite capital, technical know-how and machinery.

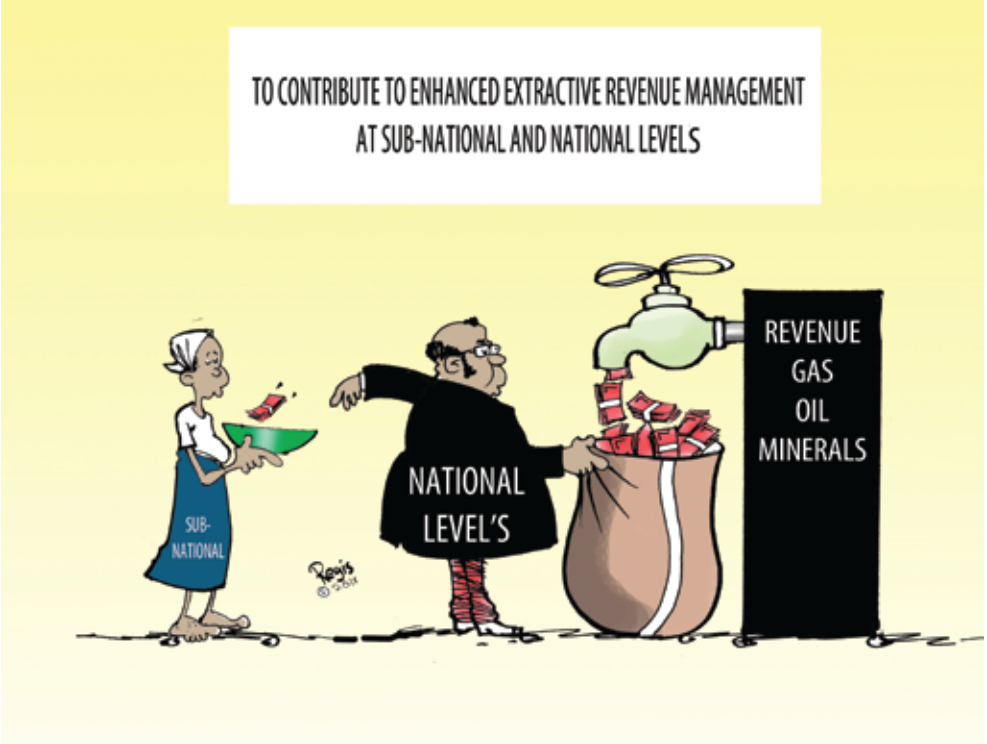
Recommendations

As shown above, these Regulations lack notable changes from the repealed Regulations and they have failed to include or address longstanding complaints of stakeholders. Moreover, the process to formulate this Regulation was an expedited one after orders from the President. In that regard, it is recommended that; -

- More stakeholder consultation be undertaken followed by a total overhaul of these Regulations so as to address stakeholders' complaints and views as well as to reflect the spirit of the current regime with regard to the extractive industry.

- Public awareness campaign be enhanced, to respond to the noted state of low public awareness in the community, during research and consultations, the low awareness was even noted among the ASM and
- Communities living around the mining operations

ANALYSIS OF THE TANZANIA'S MINING (MINERAL BENEFICIATION) REGULATIONS 2018



OPPORTUNITIES AND CHALLENGES UNDER THE REGULATION

HakiRasilimali
Transparency & Accountability for the Extractive Industry

Publish What You Pay Tanzania

2.2.1. The Mining (Mineral Beneficiation) Regulation, 2018 POLICY BRIEF

1.0 Introduction

On 10 July 2017, Tanzanian President John Pombe Magufuli assented to three new laws envisaging increasing National control and Government stake in mining, oil and gas operations in Tanzania. The laws include Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017, The Natural Wealth and Resources (Permanent Sovereignty) Act, 2017 and Miscellaneous Amendments Act, amending Mining Act, 2010.

These amendments follow the investigative report from the Presidential Committee, on the export of metallic mineral concentrates. The Government is entitled to hold at least 16 per cent free carried interest and possible acquisition of up to 50 per cent of the shares in a mining company.

Mining Commission (Commission) has been established to perform the advisory roles of the Mining Advisory Board. The Commission, apart from having advisory functions, has been empowered to:

(i) Issue licenses across the mineral value chain
(ii) Regulate and monitor the mining industry and operations, and
(iii) Ensure orderly exploitation and utilization of mineral resources.
(iv) Resolve disputes arising from mining activities, including investigations on safety issues.
(v) The Commission is empowered to analyze, value the concentrates and ensure value addition and beneficiation within Tanzania.

Following the changes to the Mining Act, the Government has issued a number of regulations to support the implementation of the new requirements under the law. However, of most interest is the Mining (Mineral Rights) Regulations, 2018 (Mineral Rights Regulations), which repeals the Mineral Rights Regulations of 2010, and the Mining (Local Content) Regulations, G.N No. 3 of 2018 (Local Content Regulations).

The Mining (Mineral Beneficiation) Regulations 2018 originates from the above legislations as well as the Mineral Rights Regulations 2017. The regulations operationalise the state commitment to ensure that natural wealth is used to the greater benefits and welfare of its people.

Opportunities, Strengths, Policy Gaps & Recommendations

1.Opportunities and strengths

- Beneficiation and value addition of minerals before export is intended to capture maximum value through increased exports of semi and full processed products, creating local employment and accelerating industrial development using the mineral resource.
- It is argued that focus on value addition and beneficiation of raw minerals can bridge trade deficit and reap the benefits of the finite resources beyond the taxes.
- The regulations consolidate Tanzania's firm grip on its mineral value chain by requiring that all minerals be processed domestically before export.
- The regulations provide potential for increased government revenues from exports of value added minerals.
- The regulations demand Licence holder procure goods and services which are locally available
- It requires that any mineral or waste products be handled in a manner commensurate with the Environmental Management Act (2004) and its respective regulations.

Policy Gaps

- The regulations need too clearly distinguish between beneficiation and value addition. Technically Beneficiation is more suited to processing of metallic and industrial minerals while Value Addition addresses gemstone cutting, jewelry and production of end user commodities.
- Such policies should reflect the wider industrial and skills development ambitions of the country. Concentrating on beneficiation may result in overlooking more attractive 'lateral' development opportunities.
- The regulations do not provide a transitory period to allow investment in the mineral beneficiation facilities to take place. The regulations assume establishment of processing, smelting and refining facilities is a short-term venture.
- Tanzania is signatory to several Multilaterals and Bilateral Trade and Investment agreements. These may limit Tanzania to impose new beneficiation and value addition obligations.

Policy Recommendations

- Mineral beneficiation should be seen as a catalyst for economic growth and local development not an end in itself. It should be hinged on an overarching vision of facilitating broader development outcomes beyond mining.
- Mineral beneficiation policies should be informed by strategic need to improve the value chain and maximize diversification of economies.
- Resource diversification should target back ward and forward linkages and improvement of knowledge, technology and infrastructure that will outlast the mineral resources.
- The government should set a gradual time frame for mining companies or mining right holders to comply with the new requirements of the law and its regulations.
- Another challenge in undertaking processing and smelting and/or refining licenses is locating suitable land for the work. Existing competing interest over land demands involvement of Surface land user, Local government authority and the Land Ministry.
- Need for further consultations before the regulations are operational. This will be essential in creating consensus and collective ownership and acceptance from all stakeholders.

2.2.2 Analysis of the Mining (Mineral Beneficiation) Regulations 2018

Introduction

This brief was prepared for popularizing the mining (Mineral Beneficiation) regulations 2018. It provides a background analysis of the contents and potential benefits that can be derived from the regulations as informed by the recent changes in Tanzania's mining legislative framework

Background

On 10 July 2017, Tanzanian President John Pombe Magufuli assented to three new laws envisaging increasing National control and Government stake in mining, oil and gas operations in Tanzania.

- The Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act, 2017 (Unconscionable Terms Act)
- The Natural Wealth and Resources (Permanent Sovereignty) Act, 2017 (Permanent Sovereignty Act)

The Government of Tanzania premised the three new laws on the country's sovereignty over its natural resources. The preamble to both the Unconscionable Terms Act and the Permanent Sovereignty Act invoke the United Nations General Assembly's Resolution that declared that all nations have a right to "permanent sovereignty over their natural wealth and resources", which "must be exercised in the interest of their national development and of the well-being of the people".

- Miscellaneous Amendments Act, which amends the Mining Act, 2010 which consolidated government participation in mining projects, established a Mining Commission to act as a regulator, set requirements for the storage, transportation and beneficiation of raw minerals and increased royalty rates.

The Mining (Mineral Beneficiation) Regulations 2018 originates from the above legislations as well as the Mineral Rights Regulations 2017. The regulations operationalise the state commitment to ensure that natural wealth is used to the greater benefits and welfare of its people.
Salient features

As an interpretation of the Permanent Sovereignty Act and the amended Mining Act, mining companies may not export any raw minerals for processing outside Tanzania, and instead are required to develop beneficiation facilities in the country.

Under the mineral value chain milling, beneficiating and dressing of mineral ores includes smelting and refining of minerals. Based on the interpretation section, the primary focus is Metallic and Industrial minerals only, thus Gemstone sub- category is excluded.

"beneficiated minerals" means any metallic or industrial minerals which have been processed, smelted or refined;

The regulations contain basic guidelines for application of a license for processing, smelting or refining of mineral, the payable license fees, rights and obligations of a license holder and resultant penalties for failure to comply. Upon extraction, raw minerals must first be stored in a secure facility and then transferred to the Government Minerals Warehouse within five days. From there, minerals may only be transferred to a domestic processing plant; trading done by an authorised mineral dealer; and exported with the Government's approval in form of export permit. It also compels the license holder to keep a register and submit monthly records to the mining commission of minerals processed, receipts, dispatched or disposed.

Opportunities and strengths

- Beneficiation and value addition of minerals before export is intended to capture maximum value through increased exports of semi and full processed products, creating local employment and accelerating industrial

- The regulations consolidate Tanzania's firm grip on its mineral value chain by requiring that all minerals be processed domestically before export.

- Under section 9(1) of the regulations –Any arrangement or agreement for the extraction, exploration or acquisition and use of natural wealth and resources shall ensure that no raw materials are exploited for beneficiation outside Tanzania. For purposes of subsection (1) in any arrangement or agreement for the extraction exploitation or acquisition and use of natural wealth and resources, there shall be commitment to establish beneficiation facilities within the United Republic.

- The regulations therefore provide a potential for increased government revenues from exports of value added minerals. The regulations oblige every license holder to provide employment and skills development for Tanzanians. It and mandatorily requires a license holder to implement a succession plan for local nationals to replace expatriate labour. This suggests that there will be more employment opportunities and new skills developed in the lucrative Mineral value addition industry.

- The regulations bind the license holder to procure locally goods that are available in the United Republic. This is in line with the government's initiatives to increase the volume of local content and transfer of benefits from the mining sector to the local communities.

- It restricts the license holder from degrading the environment by requiring that any mineral or waste products be handled in a manner commensurate with the Environmental Management Act (2004) and its respective regulations.

Limitation and Weakness

a) Absence of Economic linkages and industrial competence

i. Such policies should reflect the wider industrial and skills development objectives of the country, in order to focus on areas where capabilities are of use beyond the extractive industries. Concentrating on beneficiation may result in overlooking more attractive 'lateral' development opportunities. Capabilities developed in mining may lead more naturally to other types of engineering for example, than to downstream mineral processing.

ii. Priority areas should include those where suitable capacity already exists, or where beneficiation is likely to lead to enhanced downstream manufacturing. Beneficiating all of the country's minerals is neither feasible due to finite nature of the resources nor is it essential for developing a larger manufacturing sector. Tanzania will need to invest far more heavily in training a skilled workforce, cheaper capital, promote Research & Development, improve skills and infrastructure as well as provision of reliable, adequate and competitively priced energy.

iii. In a global economics what matters is not the comparative advantage (having the minerals) but the competitive advantage (having the skills to produce competitively at the right price

b) Narrow value chain scope

i. The regulations are too narrow in focus and appear to target a narrow segment of the Mineral Beneficiation chain that is value addition through processing, smelting or refining. By limiting focus to these aspects, there is an assumption that full beneficiation from minerals can largely be achieved through establishment of processing, smelting or refining facilities locally.

ii. The regulations are oblivious to the fact that there are some minerals for which processing, smelting or refining locally may not be commercially viable. It also assumes that all extractive companies have financial and technical capacity to enter into mineral processing and refining. Mining projects are pegged on the lifespan of the body ore and are dictated by volatile market dynamics. Smelting is a very specific operation and may not necessarily be the core business of a mining company.

iii. An alternative approach could focus instead on developing the enabling environment; institutional, regulatory, political and attitude for business and market.

This can involve analyzing the domestic market capacity, industrial competence gaps and Government acting as a knowledge broker for local business and extractives companies on existing capabilities.

c) Unclear definition or of Beneficiation and Value addition

i. The regulations need too clearly distinguish between beneficiation and value addition. Technical definition of Beneficiation is more suited to processing of metallic and industrial minerals. It starts with extraction of the minerals from the Ore, refining, to increase % grade and purity.

ii. Value addition fits more on gemstones though interlinked but value addition go beyond refining and smelting; to go to cutting, jewelry and production of commodities for end users.

d) Unclear definition of raw minerals and concentrates

i. The regulations do not clearly define what constitutes raw minerals. The interpretation of raw materials appears to be generic terms referring to all minerals which have not been and yet what constitutes a raw mineral to a geologist may not be necessarily the same to a chemical mineral engineer.

ii. Similarly, there is no clear distinction between mineral concentrates (Makinikia) and waste rock (Magwangala). Concentrates are legally a property of mining company or mining right holder while waste rock (Magwangala are by large left overs or by products from the mining operations. There is Confusion amongst communities and law enforcement agencies, who mix the two concepts

e) Time frame

The regulations do not provide a transitory period to allow investment in the mineral beneficiation facilities to take place. The regulations assume establishment of such processing, smelting and refining facilities is a short-term venture. The reality is that establishment of mineral value addition facilities such as a smelter are expensive ventures, requiring considerable amounts of investment capital. Decisions to invest in ventures of this nature are informed by considerable technical and business factors such as volumes, scale of operations, rates of return and profits generated from the smelters. Normally, resource mobilization for investments of this nature may require longer timeline and may not be viable at short notice.

f) Silence on Community

The regulations are quite silent on the community beneficiation from the mining operations. The structure and wording of the regulations suggest that the government assumes that the communities will benefit from the intended beneficiation activities (processing, smelting and refining) from the mining sector. However, these activities as defined in the regulations are highly skilled undertakings whose trickle effects to the communities in the mining areas may be limited.

g) Government Carried interests.

The acts carry provisions that require state participation and equity in mining operations in the form of shares and carried interests. The acts require a minimum government equity of 16% free carried interest in the capital of mining companies. Tax expenditures granted to mining contracts are converted to government equity share of up to 50% the company and up to 66% of the total equity. The regulations do not indicate whether government will maintain such carried interests in the mineral beneficiation facilities and whether it is willing to incur or bear any portion of risk that may arise from investment in noncommercial viable mineral beneficiation facilities.

h) Verification of accuracy of mineral beneficiation data

Section 11 of the regulations requires a license holder to keep a processing, smelting and refining register of all mineral varieties and mineral products and to submit on monthly basis the data receipts, dispatches or disposal of such minerals or mineral products. However, it does not elaborate how the verification of the accuracy of the data will be made, as this requires a clear institutional arrangement.

i) Limitation under Trade and Investment treaties

In 1995, Tanzania became a member of the Marrakesh Agreement Establishing the World Trade Organization and thus became a party to the General Agreement on Tariffs and Trade ("GATT") and the General Agreement on Trade in Services ("GATS")

Article XI:1 of the GATT reads as follows: "No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any [WTO Member] ... on the exportation or sale for export of any product destined for the territory of any other [WTO Member]."

If the implementation of the laws positions Tanzania to act in breach of its obligations under the GATT, it will have to negotiate a modification of its obligations or face the risk of its breach being referred to the WTO's Dispute Settlement Body ("DSB"). If the matter is referred to the DSB, some or all of Tanzania's rights under the GATT could be suspended until the dispute is resolved. Predictably, such a suspension will have a detrimental impact on the entire economy and not just the mining industry.

The Government of the United Republic of Tanzania has been signing various legal instruments for the Promotion and Protection of Investments with countries like Great Britain and Northern Ireland, Germany, Sweden, Finland, Italy, the Netherlands, Denmark, Switzerland, Mauritius, Canada and more recently China.

All these agreements will significantly set limit to the extent these regulations can be implemented.

Conclusion

The mining regulations intend to support government efforts to register maximum value from the mining sector. However, if implemented in their current form, the regulations have embedded weaknesses which may off track governments objective. Mineral beneficiation policies should be informed by strategic need to improve the value chain and maximize diversification of economies. Resource diversification should target back ward and forward linkages and improvement of technology and infrastructure that will outlast the mineral resources. This necessitates Research & Development of innovative solutions and strategies to address the nation's development challenges and supporting industrialization.

Mineral value addition should be seen as a catalyst for economic growth and local development not an end in itself. It should be hinged on an overarching vision of moving the intention from increasing more rent or revenue to facilitating broader economic vision as enshrined in National Development Plans.

Recommendations

i) The regulations should focus and provide a clear definition of key such beneficiation, value addition, concentrates and waste rocks so avoid confusion and difficulties in compliance and enforcement

ii) The government should set a gradual time frame for mining companies or mining right holders to comply with the new requirements of the law and its collaborating regulations. This is very necessary so as to avoid a lacuna in mining operations

iii) Need for prioritization and identification of some areas the government creates synergies for maximum benefits. The government should focus on areas where it quickly gains benefits without stagnating operations

iv) Community concerns should be reflected in the regulations as their interest go beyond business and revenue generation

v) Need for further consultations before the regulations are operational. This will be essential in creating consensus and collective ownership and acceptance from all stakeholders.

ENABLING PROMISES OF EXTRACTIVE INDUSTRIES LOCAL CONTENT POLICY IN TANZANIA

AN ANALYSIS OF THE MINING (LOCAL CONTENT) REGULATIONS, 2018

HakiRasilimali
Transparency & Accountability for the Extractive Industry

Publish What You Pay Tanzania

2.3.1. Enabling Promises of Extractive Industries Local Content Policy in Tanzania.

Policy brief

1.0 Background

Local content is a development strategy aimed at increasing the benefits from the extractive sector and translating them to other sectors of the economy. It is the extent to which the output of the extractive industry sector generates further benefits to the domestic economy beyond the direct contribution of its value-added through productive linkages with other sectors (Tordo and Anouti 2013).

These linkages are created when the oil and gas industry purchases inputs that are supplied domestically instead of importing them, national labour is hired or local skills development and knowledge transference are promoted (Auty 2006; Heum et al. 2003).

Local content strategies vary from country to country and may include regulatory interventions to increase local employment and national industry participation (Natural Resource Governance Institute 2015) or to enhance skills development among national/local employees (Natural Resource Governance Institute 2015; Tordo et al. 2013).

Local content outcomes are understood as the positive results achieved in a country in terms of generation of local employment, skills development investments and participation of the national industry along the oil and gas value chain.

The Mining Act 2010) in July 2017 was extensively amended by the Written Laws (Miscellaneous Amendments) Act, 2017. The amendments, amongst others, require the mineral right holder to buy goods which are produced in Tanzania or the services that are rendered by local companies or citizens.

2.0 The Mining (Local Content) Regulations, 2018

In January 10 2018, Tanzania introduced Local Content) Regulations (2018) into its legal and regulatory frameworks to operationalize these ambitions. The objectives of the Mining broadly seek to capture and. enhance job creation, support and expand the domestic private sector, accelerate technology transfer and improve the quality of the local workforce.

3.0 Key features

- It states the employment, procurement, training and technology transfer requirements needed
- In terms of job creation, the regulations emphasize on the utilization of local expertise, procurement of local goods and services in the entire mining industry value chain.
- It seeks to support business development for global competitiveness.
- It defines "local companies" as "a company or subsidiary company incorporated under the Companies Act, which is 100 per cent owned by a Tanzanian citizen or a company that is in a joint venture partnership with a Tanzanian citizen or citizens whose partici pating shares are not less than 51 per cent".
- It demands that for a foreign company to be able to render services to the mining sector, it must enter into a joint venture arrangement with at least a 51 per cent interest held by Tanzanian companies or citizens.
- The mineral right holder to submit to the Mining Commission a procurement plan of five years indicating the local services which will be used in the insurance, financial, cooking and catering, legal and security sectors.

- An exception with respect to goods that are not available in Tanzania – these goods can be provided by a majority non-Tanzanian owned company provided that such a company has a local partner company holding at least a 25 per cent interest in the company.
- The Local Content regulations demand that a contractor, sub-contractor, licensee (mining company) or other allied entity shall maintain a bank account with an indigenous Tanzanian bank and transact business through banks in the country.
- The regulations establishes a Local Content Committee which shall, among others, be responsible for overseeing compliance and implementation of the Regulations
- The local content regulation imposes a fine of at least $5 million for mining companies that fail to implement the new requirements.
- The contractor is required to submit employment, training, succession and research plan

4.0 POLICY IMPLICATIONS

i. In the regulations there is uncertainty as to whether the definition of "goods" includes "services". There is need for interpretation to avoid confusion during implementation.

ii. Civil Society and Media play huge role in raising awareness-raising and educating the public as well as whistleblowers. It would have been prudent to clearly articulate the citizen participation roles including giving feedback.

iii. The capacity of the local business need to be qualified and quantified to avoid creating a lacuna and reduced efficiency.

iv. The punitive approach used for local content compliance as opposed to providing fiscal and economic incentives may discourage serious investment.

v. Tanzania may need to review Multilaterals and Bilateral Trade and Investment commitments to see how they adversely affect the policy direction.

vi. Achieving these requirements will also depend on the ability of the financial services sector, the financial laws need to be supportive of the local content aspirations.

5.0 CONCLUSIONS

- The adoption of the local content regulations in the country's mining sub- sector offers promises for enhancing benefits to Tanzania.
- Nevertheless, achieving robust and coherent in practice will require political and financial commitments to significantly restructure the way business is done and regulated
- Local business will struggle from the outset due to minimal capital, technical capability and business mindset. Thus it requires strategic support and possible subsidies to allow them to compete with established global firms
- Both local and International private sector players are expected to champion compliance in local content regulation, thus need to involve them in design and setting realistic time lines.

2.3.2. Tanzania-An analysis of The Mining (Local Content) Regulations, 2018

1.0 Background

Tanzania is well-recognised as being endowed with with abundance of natural resources including, to mention a few, diamonds, gold, nickel, the unique gemstone, Tanzanite and huge reserves of hydrocarbons particularly natural gas. Mining accounts for about 4.8% of Tanzania's GDP and Gold represents about 90% of these mineral exports. The petroleum sector is dominated by natural gas, of which there are currently two producing fields. Interest in Tanzania's oil-production potential is high, and Tanzania has licensed out exploration rights to various on- and off-shore blocks, despite the commercial quantities of oil not having been brought on-line. Within the extractive sector, mining accounts for a bigger share of the operations and critical connections with local communities.

Beyond the good intention of ensuring that sovereign resources in Tanzania are excellently accounted for, there are emerging concerns, however, that the potential for extraction to contribute to economic growth in the country has not been realised especially in terms of improvement of the lives of the poor, particularly in the destinations of such investments. These concerns are not unique to Tanzania and in recent years many African countries have moved to enhance the role of extractive activities in contributing to sustainable socio-economic development. In Tanzania, mounting public and parliamentary pressure resulted in improved legislative frameworks and fiscal regimes including the introduction of Local Content laws, regulations and strategies.

Local content can be described as a strategy aimed at increasing the economic benefits from the extractive sector by creating stronger linkages with other sectors of the economy beyond the direct contribution of its value-added (Tordo and Anouti 2013). Such linkages are established when extractive industries transact with domestic suppliers of goods and services instead of importing them and when labour is hired locally and local skills are enhanced (Auty 2006; Heum et al. 2003). Countries take different approaches to promoting local content but it is a common feature for some to begin with broader local content frameworks (policies and laws) and ending with putting in place regulations to increase local employment and skills enhancement (Natural Resource Governance Institute 2015; Tordo et al. 2013). It is useful to note, however, that there are other dynamics that contribute to an effective local content policy (Aoun and Mathieu 2015).

The main premise behind local content enhancement in Tanzania as far as natural resources are concerned, is that these metals, gemstones and hydrocarbons belong to the people and hence policies governing their extraction must be geared towards benefiting those who own them. There are four main local content themes related to the mining and gas subsectors namely employment; training; procurement and technology transfer. The recent policy, legal and regulatory reforms have hence been undertaken to cater for these themes. These include the National Energy Policy (2015); Mining Policy (2009); Petroleum Act (2015); Mining Act 2010 (as amended in 2017); Petroleum (Local Content) Regulations (2017) and Mining (Local Content) Regulations (2018).

To this end, this guidance note provides a qualitative review of the Mining (Local Content) Regulations (2018) which aim to boost good corporate citizenship in the country's mining industry by maximizing value-addition and job creation, developing local capacities in the mining industry in Tanzania, increasing international competitiveness of the country's businesses and achieving and maintaining a degree of control by Tanzanians over development initiatives among many others.

2.0 The Mining (Local Content) Regulations, 2018

In January 10 2018, Tanzania introduced local content provisions in its legal and regulatory frameworks relating to the extractives to enhance job creation, support and expand the domestic private sector, accelerate technology transfer and improve the quality of the local workforce. The objectives of the Mining (Local Content) Regulations (2018) broadly seem to capture and concretise this intent.

Published as Government Notice No. 3 of 2018, the regulations state the employment, procurement, training and technology transfer requirements needed, the monitoring and enforcement mechanisms while stating government obligations in support of the companies' efforts. In terms of job creation, the regulations emphasize on the utilization of local expertise, procurement of local goods and services in the entire mining industry value chain in Tanzania and supporting business development for global competitiveness.

On building local capacities, the regulations stipulate not only skills transfer and expertise development but also transfer of technical know-how and the support of research and development programmes. There are provisions to deliver a monitoring and reporting system including to report on agreed local content plans by firms involved in the mining industry with recruitment and training programmes.

The Regulations emphasize on integrity and anti-corruption as noted in clause 1 of the Schedule stating that: "unethical business practices, corruption and other malpractices are potential impediments to sustainable economic growth" and Regulation 4(b).
3.0 Important Provisions in the regulations

Part I

Part I provides background to the regulations by defining key terms used in synthesis of the regulations and outlining objectives of the regulations in relation to value addition, job creation, delivery of goods and services and financing.

What is worth noting under this part is that the objectives section lacks some clarity. For instance 5(g) stipulates that mining entities should refrain from "dealing with unethical companies" but does not direct how such companies will be recognized.

Part II

Part II begins by outlining the administrative provisions of the regulations including stating the establishment of the Local Content Committee to whose core functions are to oversee, coordinate and manage the development of local content in mining. This includes setting guidelines for local content plans and reporting as well as leading on public education on the issue. The committee appears to have a powerful role including auditing the implementation of local content plans and issuing the reports to the Mining Commission, but the relationship between the Mining Commission and the Local Content Committee is assumed but not explicitly clear.

The most important provisions under this part protect the interests of and give preference to citizens in terms of enhancing their participation in mining activities. Regulation 8(6) stipulates that a "non-indigenous Tanzanian company which intends to provide goods or services to a contractor, a subcontractor, licensee, the Corporation or other allied entity within Tanzania shall incorporate a joint venture company with an indigenous Tanzanian company; and afford that indigenous Tanzanian company an equity participation of at least twenty percentum." The regulations delineate an "indigenous Tanzanian company" as one that is incorporated under the Companies Act 2002 of Tanzania and with at least 51% of its equity owned by a citizen or citizens of Tanzania; and has Tanzanians owning no less than 80% of executive and senior management positions and 100% of non-managerial and other positions.

The rationale here is to curb the problem of foreign entities and individuals establishing creative structures that have indigenous companies and individuals simply 'fronting' interests of the non-indigenous companies.

Another provision that aims to safeguard interests of locals is in Regulation 15(5) that states that non-indigenous Tanzanian companies are required to incorporate a company in Tanzania and operate it from Tanzania and provide the goods and services "in association with an indigenous Tanzanian company, where practicable", prior to providing goods and services to a contractor, subcontractor, licensee, or other allied entity. It is unclear how 'where practicable' can be interpreted as it is not defined and there is a risk that a very broad understanding of this can lead to loopholes where variables such as not-so-favourable costs, quality and timeliness are cited and used to describe impracticability.

The implications of Reg 8(6) & 15(5) will mean foreign-owned companies may decide to incorporate a Joint Venture (JV) with an indigenous entity with not less than 20% to provide goods and services to mining company and Reg 8 (7) (b) means foreign-owned vendors will submit to their clients carrying out mining activities the equity participation of the indigenous Tanzanian company in their JV when signing contracts and when bidding.

Part III

This part focuses on the submission of long-term local content plans to the Mining Commission by the Contractor before commencement of mining activities where they will outline how Tanzanians are to participate in the endeavor including equity issues, employment and transfer of know-how. These plans must be accompanied by work programme and annual local content plans.

The Plans shall also outline how local goods and services will be given preference provided the meet internationally acceptable standards or those set by the 'Standards Authority'. This part also stresses that adequate Tanzanians shall be given first consideration for employment and on-the-job training.

Overall, this part is robust in its enforcement and monitoring mechanisms. There seems to be a clear connection between the regulations' objectives and mechanisms for achieving the local content outcomes such as the responsible company establishing a bidding process that ensure preference for local procurement including making it mandatory for the Contractor to submit periodic plans and reports on the implementation of the local content requirements and providing powers to the Commission to make publicly accessible records that relate to local content. These measuring and monitoring mechanisms are more likely to achieve better local content outcomes.

It is worth noting, however, that the regulations exclude other stakeholders specified by the Mining act 2010 to be critical in the approval and monitoring of implementation, particularly independent bodies civil society and the media as well the corporate networks. For instance, there is no mention of the participation of stakeholders in the review of local content plans as per section 4(a). This is unsurprising, however, because neither these Regulations nor the 2017 laws that were enacted under a certificate of urgency involved meaningful stakeholder consultation and adequate parliamentary deliberations.

The exclusion of such stakeholders may defeat the objectives of collective action required and is divergent from the spirit of promoting norms of good governance in the sector. Further, the discretionary engagement with local government and civil society diminishes the benefits of multi stakeholder participation in enforcement and monitoring of the regulations.

Part IV

This part emphasizes on sub-plans for local employment and training as well as succession planning and stipulates that the sub-plans include forecasts of the hiring and training needs of the company including the skill shortages in the Tanzanian workforce. The sub-plans shall also provide a timeframe for the company to offer employment to Tanzanians for each phase of the mining activities and efforts made for accelerated training of Tanzanians. The company will also be required to furnish to the Commission quarterly reports on their efforts towards enhancing local participation with regards to employment and training activities for locals. In instances of lack of expertise locally, the company shall ensure that every reasonable effort is made to provide training to Tanzanians in that field. It is unclear how the Commission or the Committee will assess whether reasonable efforts have been made in this regard.

This part, moreover, requires the company to provide a succession plan for employment positions that are occupied by foreign citizens working in the mining sector in Tanzania. This plan shall include the requirement for Tanzanians to become the understudy of the non-Tanzanians for a period to be determined by the Commission following after which the position shall be assumed by a Tanzanian. The Regulations also specifically stipulate that junior or middle level positions are the sole preserve of Tanzanians.

Part V

This Part makes provisions for research and research development sub-plans whereby upon a company being granted license to operate, the entity is required to submit a programme for research, development and a corresponding budget to the Commission for promotion of education, practical attachments, trainings, research and development in relation to the overall work programme activities to be upgraded annually and submitted for approval.

Part VI

The segment of the regulations provides for technology transfer programmes and reports whereby the Commission will develop and publish the national policy for technology transfer applicable to the mining industry including a programme of planned initiatives aimed at promoting the effective transfer of technologies from the company to Tanzanian Companies or Tanzanians. The Company will submit annual reports to the Commission in this regard.

Part VII

This part outlines the requirements relating to the use of insurance services including compliance to Tanzanian insurance laws which were amended in 2017 (Written Laws [Miscellaneous Amendments] Act, 2017) by ensuring that risks are insured using local brokerage firms.

Specifically, the Written Laws (Miscellaneous Amendments) Act, 2017 makes amendments to the Insurance Act by increasing local stake requirement for registration as an insurance broker from one third to two thirds of the 'controlling interest' in the insurance broker. It is worth noting that "Controlling interest" is not defined in the Insurance Act creating ambiguity on whether brokers must be 66.67% Tanzanian owned or whether controlling interest is 66.67% of 51%. The Insurance Act also stipulates that a Tanzanian resident company secures insurance cover from a Tanzanian insurer and only when the class of insurance is not accessible locally, can the cover be secured from a foreign insurer provided the Commissioner of Insurance authorizes.

The Regulations thus require mining activities risks be insured using a local brokerage firm or, where applicable, an indigenous reinsurance broker; and for the said company to only retain offshore insurance services for a mining activity in Tanzania with the approval of the Commissioner of Insurance, who may grant such approval only if he or she is satisfied that local capacity in Tanzania has been fully exhausted.

Part VIII

The Company is also required to retain local legal practitioners or firms that are principally located in Tanzania. The Regulations impose penalties for non-compliance, applicable to mining companies as well as legal practitioners and law firms, of fines of up to five billion Tanzanian shillings or imprisonment of up to five years.

Part IX

The same is required with regards to engaging the services of a Tanzanian financial institution by the mining entity (shall only retain the services of a local financial institution or organization and can only retain the services of a foreign financial institution with approval of the Mining Commission). In terms of curbing illicit financial flows (IFFs) from Tanzania, locally owned banks can help monitor suspicious movements of capital outside of the country. IFFs are the illegal movements of money or capital from one country to another. Global Financial Integrity (GFI, 2013) classifies this movement as an illicit flow when the funds are illegally earned, transferred, and/or utilized.

An indigenous bank is defined as one that is 100% Tanzanian or with majority Tanzania shareholding. This means holding bank accounts locally and transacting through such institutions. The Regulations state that there shall be a financial services sub-plan to specify the financial services utilized and submitted to the authorities. Due to this, the implication is that mining entities may be required to end existing arrangements with non-Tanzanian financial institutions and retain the services of local banks. It is worth noting, nonetheless, that the Regulations do not categorically prevent a mining entity from holding an account with a foreign-owned based in Tanzania.

Part X

Advances the requirements, formats and frequency for submission and assessment of performance reports by contractors, sub-contractors and allied institutions.

Part XI

Outlines the establishment of common qualification system for registration and prequalification alongside providing obligations for communicating the policies to stakeholders

Part XII

Provides framework for monitoring compliance to and enforcement of the regulations as directed by the mining commission

Part XIII

Outlines offences, penalties and complaint mechanisms for grievances arising from decisions by regulatory institutions

4.0 Schedules

The first schedule outlines the minimum local content goods and services to be progressively attained by the contractor in research and development, health services and information and technology

The second and third schedules provide descriptions of information to be submitted by the contractor to the commission prior to the issue of prequalification, bidding and prior to request for qualification

Nevertheless, taking into account the country context in which local co-operatives and business networks are growing rapidly, it would be valuable to recognise them as priority service providers in order to demonstrate clear economic benefits on the ground

5.0 Conclusions and Policy Implications

The adoption of the local content regulations in the country's mining sub- sector offers promises for enhancing benefits to the country and its people, focusing on sustainable local development. Nevertheless, achieving robust and coherent in practice will require efforts to significantly restructure the way companies procure crucial goods and services and their willingness to offer government and other stakeholders genuine support to build the skills base in the mining sector given the shortage in Tanzania. Achieving these requirements will also depend on the capacity of the financial services sector, the insurance and legal sectors to reorganize to meet these new regulations. In the African context, lessons from Ghana could be valuable for informing the establishment of these regulations.

Moreover, investments in popularisation among explicitly defined stakeholders, a clear accountability and workable framework clarifying explicit institutional responsibilities and synergies across stakeholder groups and effective alignment for monitoring of envisaged outcomes at local, sub national and national levels will be needed. Further, it is important to emphasize that monitoring of performance should balance between quantity and quality of benefits and long-term results alongside ensuring that local suppliers adhere to ethical standards.

Overall, these are well-intentioned local content regulations but whether they will succeed in contributing to ensuring that the efficient exploitation of the country's mineral resources through stronger backward and forward linkages with other sectors of the economy remains to be seen.

References

Aoun, M.C. and Mathieu, C. 2015. Local Content Strategies in the Oil and Gas Sector: How to Maximise Benefits to Host Communities. French Institute for International Relations, Paris.

Auty, R. 2006. Mining Enclave to Economic Catalyst: Large Mineral Projects in Developing Countries. Brown Journal of World Affairs, 135-145

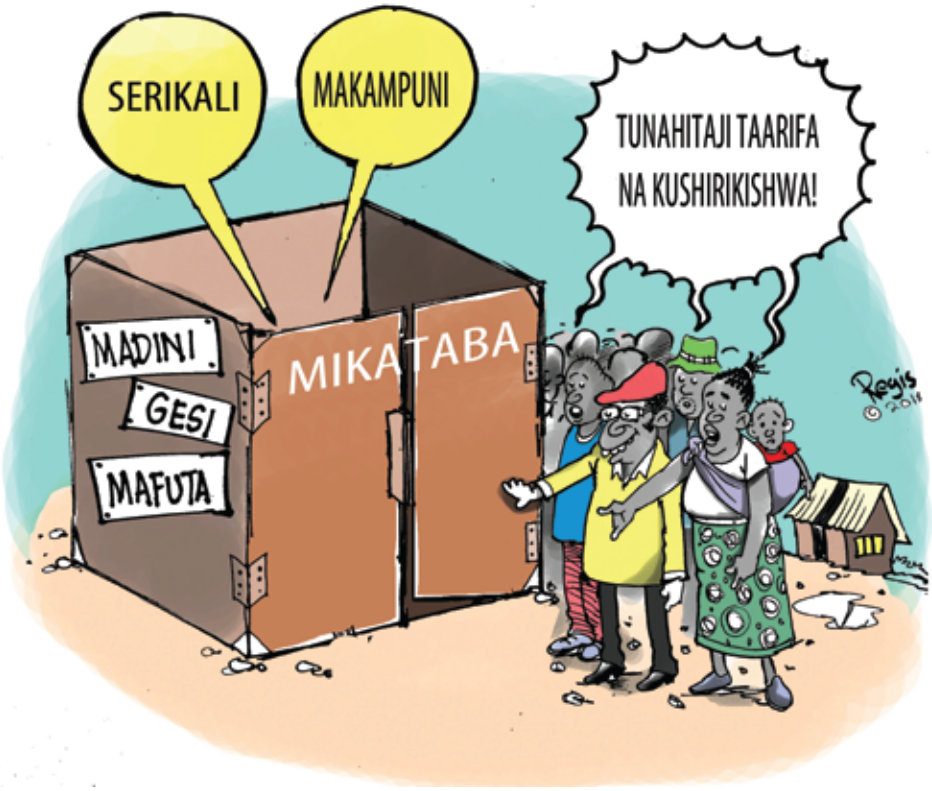
Global Financial Integrity (GFI), 2013. Illicit Financial Flows: https://www.gfintegrity.org/issue/illicit-financial-flows/ (Accessed 12/09/2018).

Natural Resource Governance Institute. 2015. Local Content: Strengthening the Local Economy and Workforce.

Tordo, S. and Anouti, Y. 2013. Local Content in the Oil and Gas Sector: Case Studies. World Bank, Washington

Written Laws (Miscellaneous Amendments) Act, 2017

ANALYSIS OF THE ACCESS TO INFORMATION REGULATIONS, 2017



"While other countries in the world aim to reach the moon, we must aim for the time being at any rate to reach the villages by providing them with necessary information".

Mwl. Julius Nyerere in 1967

In Collaboration with

Tanganyika Law Society

SIRD

2.4.1. THE ACCESS TO INFORMATION REGULATIONS, 2017

1. Introduction

Tanzania signed regional instrument, the African Platform on Access to Information Declaration (2011), APAI, as a commitment to guarantee citizens to exercise and enjoy the access to information right. The APAI Declaration recognizes "access to information as a fundamental human right.

Access to information Act was passed by the Tanzania parliament on 7th September 2016 and assented into law by the President of the United Republic of Tanzania on 23rd September 2016.

It should be noted that the Access to Information as a right is enshrined in different laws such as the Constitution of the United Republic of Tanzania under article 18 (1) and (2) and the Environmental Management Act, 2004 under section 7 (3) (f) and 172 (1) and (2).

Like the Constitution of the United Republic of Tanzania, the Access to Information Act, contains several limitations which restricts citizens from exercising this right, right to access information contrary to the African model law on access to information, the APAI Declaration.

The Access to Information Regulations 2017 was then developed to define the scope of information which the public has the right to access. These Regulations set the limits and extent in which the access to information right can be exercised and enjoyed. Citizens' access to information is vital for the promotion of democracy, human rights, rule of law and entrenching accountability and transparency in the state. Experience demonstrates how strengthening citizen access to information positively impact governance and state building.

2.0 Advantages of the Access of Information Regulations 2017

a. Promote Transparency and Accountability

Right to information facilitated through this regulation may help to keep citizens informed about every single development in socio-political and economic affairs on the part of the government.

b. Promote Citizens' Participation in Nation Building

The Regulations, if enforced have the potential of enhancing people's participation in socio-economic developments of their country.

c. Provide Guidance on how to Publish Certain Information

The Regulation set a clear mechanism on how the public can exercise its right to access information from the public authorities. They also give clarity on which information can be accessed by the public.

d. Accessibility of Publication Schemes

The Regulations have set a clear guideline on the form of information that the public is entitled to access from the information holder.

e. Exemption of Stating Reasons for Seeking Information

The Regulation have relatively lessened the burden of information seekers as the reasons for seeking such information is no longer required to be provided.

3.0 Gaps of the Access to Information Regulations

Notwithstanding the numerous valuable things contained in the Access to Information Regulations, there a few but notable weaknesses which need to be addressed. Such gaps include the following;

i. The Regulations (mostly) applies to public authorities and not to private entities or public-private projects which may have information of public interest or utilizes public fund;

ii. The Regulation create an environment of limiting the full enjoyment of the access to information right. The Regulations restrict full disclosure of certain classes of information of public interest;

iii. The Regulations exempt information of commercial nature from being disclosed while such information may require to make informed decision i.e in investment touching on communities or procurement which has far reaching impact.

4.0 GLOBAL BEST PRACTICE

The successful experience of the implementation of access of information in other countries entails a number of unique attribute worth emulated by other countries, the features like:

i. information officers of the respective institutions have a full authority for the administration of the Act.

ii. presence of written procedures well known adopted by government institutions for the handling of particular requests made by the public.

iii. the process to notify the public officials of imminent disclosure of information rather than for approval being in place.

iv. the performance of public officials being monitored, the process being assessed as required to ensure its efficiency that it fully meets the requirements of the Act

2.4.2. ANALYSIS OF THE ACCESS TO INFORMATION REGULATIONS, 2017

The Political Economy of the Right to Access to Information

We are reminded by the Legal anthropologists that the access to information is traced way back from the work of the Age of Enlightment, the 18th Century. The modern form of the concept of the right to access to information, as it is understood today, takes it course in 1776 when Sweden enacted the Freedom of Information Act. Thereafter, various enlighten thinkers including Anders Chydenius (1729-1803) and Professor Juha Manninen shaped the thinking and since then many countries across the world have enacted specific pieces of legislation to allow the public to access information held by public authorities. France in 1789 came up with the 1789 France's Declaration of Human and Civic Rights which still forms part of the French Constitution under Article 14. In 1966 the United States of America adopted the Freedom of Information Act.

Regional groupings, in 1946 the International community through the UN General Assembly Resolution 59(1) on Freedom of Information declared and recognized Freedom of Information as a fundamental human right that is the touchstone of all the freedoms. The European Union-the Council of Europe in 1981 adopted Recommendation to member States on the Access to Information Held by Public Authorities. As we will see later, Africa also followed similar course.

The principle/right to freedom of information has been approved as part of national legislation throughout the world. Up to 1990's there were about 70 countries with specific pieces of legislation to enforce this right. Other countries have this right in the strongest possible terms within their constitutions. The number is growing every year. However, one should note that many pieces of legislation so adopted have drawbacks which threaten the right to access to information.

Introduction to the Access to Information Regulations 2017

This briefing note seeks to analyze and simplify, for the wider use, the Access to Information Regulations (made under section 20 of the Access to information Act No. 6 of 2016) published in the Government Gazette on 29th of December 2017. The analysis and simplification cover a brief background of the access to information concept, regional and international experiences as far as the access to information is concerned. The analysis and simplification also touch on the content of the Regulations, suggest areas for reform, and pinpoints the advantages and gaps of the Regulations.

Background

Though not defined, the term 'Access to information' may simply refer to the means, processes or rights related to obtaining and providing information/records, mostly held by public authorities. In Tanzania, the law, the Access to Information Act No.6 of 2016, has gone extra miles whereby it compels private entities accessing public funds to disclose information to the public. In modern times, the availability of information by the public is regarded as an important human right as it enables the public to make informed choices/decisions when it comes to electing social and political leaders. Accessing quality information therefore becomes a fundamental aspect in building and developing democratic societies. Access to information is also an important right as it facilitates debates and discussions.

Various international instruments have recognized access to information as a basic human right. The concept is embraced in a number of international instruments. The African Charter on Human and Peoples' Rights, ACHPR, (Article 9), Resolution 59 of the UN General Assembly adopted in 1946, as well as the Universal Declaration of Human Rights of 1948 (Article 19) for instance, regard access to information as a fundamental right.

According to the ACHPR, access to information, as a fundamental human right, is supposed to be exercised and enjoyed by everyone irrespective of his/her gender, class, race, political association, occupation, age, nationality, HIV status, or other bases. Furthermore, in exercising or enjoying this fundamental human right, a person is neither required to demonstrate a specific legal or personal interest in the information requested or sought or otherwise required nor provide justification for seeking access to the information. The presumption made here is that all information held by public bodies is public and as such should be subject to be accessed by the public. However, this right is not absolute in many countries, it is treated as a qualified right thus imposing a number of restrictions as they will be discussed in due course.

Tanzania has signed a regional instrument, the African Platform on Access to Information Declaration (2011), APAI, to express its commitment in guaranteeing its population to exercise and enjoy the right to access to information. The APAI Declaration recognizes "access to information as a fundamental human right. To give it a meaning, the APAI requires the right of access to information to be domesticated by each African country. The Declaration considers the access to information right as one of the rights that leverage development in various spheres and is relevant to numerous sectors and society at large.

In Tanzania, the Access to information Act was passed by the parliament on 7th September 2016 and was immediately assented to into law by the President of the United Republic of Tanzania on 23rd September 2016. The law came into force on the date as the Minister in the gazette published on December 2017. Prior to the enactment, various stakeholders analysed the Bill and submitted their detailed recommendations to the Parliamentary Committee on Legal and Constitutional Affairs. Despite its quick passage and assent, its implementation was slowed and stalled for reasons best known to the government. Following public pressure, the Government issued the Draft Regulations for stakeholders and the public to air their views and comments.

The Regulations were issued mainly to actuate the Access to Information Act No.6 of 2016. The purpose of the Regulations was to define the scope of information which the public has the right to access. As pointed earlier on, the right to access information is not an absolute right, therefore, these Regulations set the limits and extent in which the access to information right can be exercised and enjoyed. It should be noted that the Access to Information Act No.6 of 2016 is not the first legal instrument to provide for the right to access to information. This right is enshrined in different laws such as the Constitution of the United Republic of Tanzania under article 18 (1) and (2) and the Environmental Management Act, 2004 under section 7 (3) (f) and 172 (1) and (2). Like the Constitution of the United Republic of Tanzania, the Access to Information Act, contains several limitations which restricts citizens from enjoying this right contrary to the African model law on access to information, the APAI Declaration.

Access to information on the extractive industry:

The assumptions drawn from the UN instrument, ACPR and in the Constitution, the right of information is a fundamental human right to be enjoyed by everyone, the presumption made here is that all information held by public bodies is public and as such should be accessible by the public, however this being a qualified right, a number of restrictions have been imposed which ultimately compromises the public enjoyment on the right to access information.

According to Tanzania's Development Vision 2025, the mining sector is projected to contribute at least 10 per cent of the country's GDP by 2025, to achieve this vision the public need to be well informed so as to be able to hold the authorities entrusted with resources accountable. Pursuant to the foregoing, a number of laws

governing the extractive industry like the Mining Act and the Petroleum Act have their provisions governing the accessibility of information coached in way which limits the powers and chances of the public to access and monitor information relating to contracts and revenues in the sector.

Thus, it is expected that the Access of information act and its Regulations being the specific laws enacted to enhance transparency and accountability should come out with a mechanism to strengthen information sharing to the public when so requested. To the contrary, Regulation 9(8) put restrictions on the disclosure of trade and commercial secrets protected by other laws thus creating challenges on the accessibility of information on the extractive sector industry

Best Practice

The successful experience on the implementation of the right to access to information in other countries like Canada entails a number of unique attribute worth to be emulated by other countries. Such attributes include; -

- Information officers of respective institutions to have full authority for the administration of the Act;
- Presence of written procedures well known adopted by government institutions for handling of particular requests made by the public;
- A requirement to notify public officials on the need to disclose information rather than a requirement of approval;
- The performance of public officials being monitored and the process to be frequently assessed to ensure efficiency and that it fully meets the requirements of the Act.

An Anatomy of The Regulations

The Regulations, among other things, provide for the following;

Publication of certain information

Regulation 3 requires all the information holders to set a user-friendly scheme for the public to access. The information holders are required to provide detailed information regarding their core functions, nature of their activities, operations and the information they possess. In doing so each information holder is required to establish, maintain, and regularly update a widely accessible holder and user-friendly 'publication scheme' for an information holder to perform its duties.

Contents of the publication scheme

The publication scheme is (literally) a guide to the type of information that the authorities (public entities utilizing public funds) have to disclose to the public. The scheme sets minimum things that each information holder should contain so as to help and guide the information user to be aware of the information held and provided by the information holder. The guide among other things help the information holder to understand their obligations as provided under the law.

The Regulations (regulation 4) require the publication scheme to contain, at minimum, the following details:

- The full name, designation, functions and contact details of an information officer whose primary function is to deal with requests for information and assisting information applicants;
- Clear statement that describes the nature, organization, functions and powers of the information holder concerned, decision-making and processes;
- A statement which discloses agreements or any arrangement that it has with third parties relative to the discharge of its functions; and
- A fair description, type, category and location of the documents and information held by the information holder together with a clear statement of the public right to review, request, receive and retain copies of any of such information.

Unconditional access of information

Regulations 6, allows information seeker to exercise his/her access to information right by requesting information from any holder of information without either adducing any

reasons or stating the use of the information so requested. The information requester is however supposed to provide sufficient details, including the name, address, and nature of information so requested so as to enable the information holder to understand the nature of the information so requested.

Accessibility of the Publication Scheme

The law also requires the publication scheme of every information holder to be widely accessible. This means that the information should be made available in both hard and soft copies at a reasonable public place.

Compulsory Publication

The information holder is compelled to maintain the publication of the certain key classes of information as soon as they are generated or received without any excuse. This is intended at making sure that information is readily available for public use even without any request made thereof. The information that is supposed to be published/made available all the time include:

- Information related to legislation;
- Memorandum or charter that provides for the establishment of third parties;
- Existing policies; procedures and rules; budgets; financial accounts; contracts and their annexes that have been entered by the information holder with third parties;
- Organizational chart including lines of reporting,
- The procedures for which other parties can appeal from the decisions of the information holder or its officers; and such other information that would enable the public to deal with the third parties or to monitor their performances.

Request of Access to Information

Fundamentally, every person has the right to access information which is under custody of the information holder. However, the Regulation requires a person seeking information to request the information in the manner provided by the law. Essentially, the request of information has to fill in the form available in the schedule. For those who are unable to write and read (illiterate and disabled), the law allows oral applications. One key point to note is that the requester of information is not duty bound to give any reason for requesting the information or any other personal details other than those that may be necessary for communication with that person.

Severability

Despite the fact that some information is exempted from disclosure, the Regulations provide a leeway to the information holder to allow access of some information within the exempt information where it can reasonably be detached from the exempted information. In that, regard upon application, the information holder is required to notify the applicant of the information which is available for disclosure, the reason for withholding other information, the name and designation of the person giving the decision and lastly the applicant right of review regarding the decision made by the information holder.

Information from a Third Party

If the request of disclosure made to the information holder relates to information of a third party who treats such information as confidential, then the information holder is required to notify the third party of the intention to disclose whole or part of the information so requested. The law requires the third party to submit orally or in writing on whether the disclosure should be made or not.

The third party in this regard will make the submission within seven (7) days from the day the intention to disclose came into his knowledge. In making decision on whether to disclose information or not, the public authority shall consider the submission so made by the third party. The decision so reached must be communicated, in writing, to the third party. The decision on whether to disclose information or not in this scenario shall be made within thirty days from the day the request was launched.

Exempted information from being disclosed as shown above is the one relating to business transactions protected by law, the restriction can, however, be waived where the public interest in the disclosure become more important than its restrictions.

Treatment of Similar Requests

If all the procedures regarding application and grant of disclosure have been previously complied with by the information holder then the information holder is not bound to comply with the other similar applications unless there is a lapse of a reasonable interval between compliance with the previous request and the making of the current application.

Press conferences

As the means to promote transparency and accountability on the part of the information holder, public authorities (and private entities utilizing public funds), the Regulations requires each information holder to call conferences, on monthly basis, to brief the public on matters of public interest. In doing so, the public information holder is required to notify the public of the date and time which the press conferences are expected to be held. The public is entitled to have enough space to ask questions and get response from the information holder.

Advantages of the Access to Information Regulations 2017

Promotes Transparency and Accountability

The cornerstone of the Regulations (and the Act) is to promote transparency and accountability. Generally, the exchange of information facilitated through these Regulations help to keep the mass informed about every single development in socio-political and economic affairs on the part of the government. The information enhances the public opportunity, to seek answers from public officials on pertinent issues, thereby reducing the chances of public manipulation by unfaithful public leaders and authorities. In a nutshell, from the disclosure of information the public have an opportunity to hold their leaders to account.

Promote Citizens' Participation in Nation Building

The Regulations, if enforced have the potential of enhancing people's participation in socio-economic development of their country. Moreover, the public will be able to access various strategic plans, budgets and hence building trust over the government. The public will also have an opportunity to shape and re-shape various socio-development initiatives.

Provide Guidance on how to Access Certain Information

The Regulation set a clear mechanism on how the public can exercise its right to access information from public authorities. They also give clarity on which information can be accessed by the public.

Accessibility of Publication Schemes

The Regulations have set a clear guideline on the type of information that the public is entitled to access from the information holder and as explained earlier, the information is supposed to be available in both hard and soft copies at a reasonable public place.

Exemption of Stating Reasons for Seeking Information

The Regulation have relatively lessened the burden of information seekers by exempting them from stating the reasons for seeking such information.

Gaps and Areas for Reforms

Notwithstanding the numerous valuable things contained in the Access to Information Regulations, there are a few but notable weaknesses which need to be addressed. Such gaps include the following;

- The Regulations (mostly) applies to public authorities and not to private entities of which some of them might have information of public interest or utilizes public fund e.g. NGOs;

- The Regulation creates an environment of limiting full enjoyment of the access to information right. The Regulations restrict disclosure of certain classes of information which might be of public interest;
- There is no requirement for simplification and digestion of information by Public authority especially technical information;
- The Regulations exempt commercial transactions from being disclosed while such information is in most cases what the public is interested on to make informed decision on the products they purchase.

Areas for Reforms and Re-consideration?

Sn	Section/regulation	Provision/Statement	Recommendations
1	Regulation 8(3)	Except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.	What amounts to commercial or trade transaction may be challenging. In addition, the provision defeats the sense of public ownership and the spirit of the law, further to that, trade and commercial aspects are strategic areas in which the public seek to know of their details i.e. the extractive industry. Therefore, the provision should be replaced/removed
2	Regulation 8(5)	The information holder shall, within thirty days after receipt of the request, if the third party has been given an opportunity to make representation make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of its decision to the third party	The interval of 30 days is long, should be reduced to cover the circumstances that might call for urgent action. The regulation should provide an alternative for urgent issues which may require immediate disclosure.
3	Regulation 10(1)	An information holder which is a public authority shall, on monthly basis organize press conference to bring knowledge information of public interest.	The regulation does not provide the mechanism of press coverage to private bodies despite the fact that the application of the ATI Act under section 2 (2) includes both Public and private authorities.

Issues for Reconsideration

To give a more meaningful implementation of these Regulations with a view of helping the public to enjoy their right to access to information, there is a need for the Act to be amended on the following areas:

- Section 7 of the Act. The Act does not properly obligate the information officer to provide information. The wording like ' rendering information' is not a must/ mandatory language. In that regard it gives loopholes for the public officer to be at liberty, either to provide or not to provide information;

- Sections 18 and 22 provides for different penalties in respect of almost similar offences as far as distortion of information is concerned. This inconsistency and mis proportionality is, in law, a bad practice. This is contrary to the principles of rule of law. Section 18 states that if a person who receives the information from the information holder distorts such information, commits an offence and shall, upon conviction, be liable to imprisonment for a term not less than two years but not exceeding five years. On the contrary if a person, as per section 22, alters, defaces, blocks, erases, destroys or conceals any information held by the information holder, with the intention of preventing the disclosure by such information holder, commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding twelve months or both. The offence for the latter is lesser;

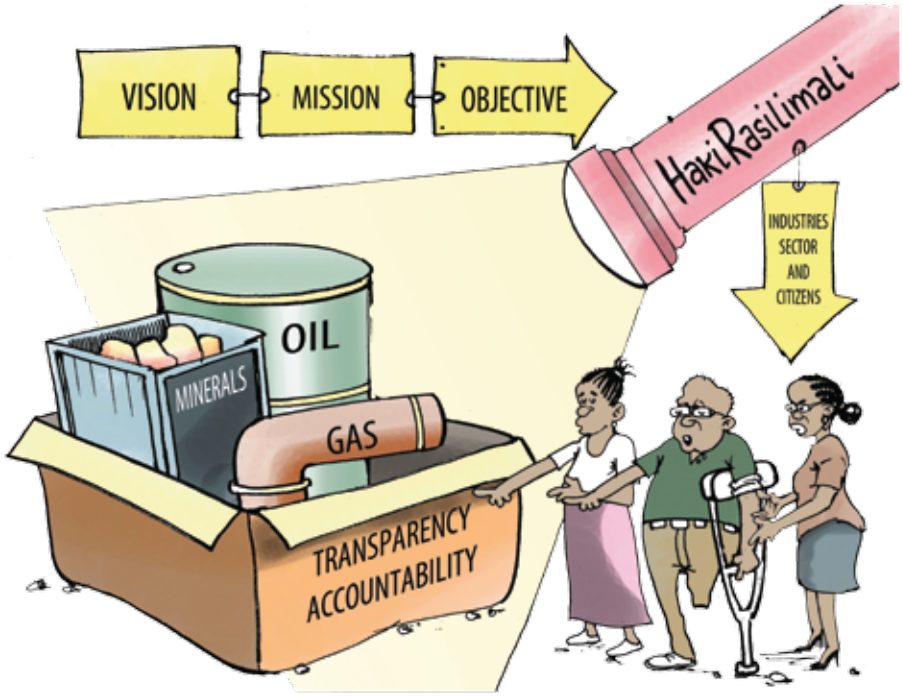
- The bureaucratic procedure involved under section 19 for information request and appeal to the Minister and the High Court technically denies public access to information. High Court in Tanzania are not easily accessible-location and technicalities involved. It might be a good idea for other subordinate courts to have the powers to determine matters of this nature;

- The power given to the information holder to defer information under section 16 of the Act hinders access to information and eventually derogate the same right the law offers to the public; and

- The law/Act does not apply to Zanzibar, the other part of the United Republic of Tanzania. It is recommended that the Act shall also apply in Zanzibar as the law was meant to operationalize Article 18 the Constitution of the United Republic of Tanzania,

SECTION THREE

ASSESSING AND DOCUMENTING LESSONS ON THE IMPLEMENTATION OF THE TANZANIA EXTRACTIVE INDUSTRIES (TRANSPARENCY AND ACCOUNTABILITY) ACT, 2015



"A lack of transparency result in distrust and a deep sense of insecurity"
- Dalai Lama

3.1. LESSONS FROM IMPLEMENTATION OF THE TANZANIA EXTRACTIVE INDUSTRIES (TRANSPARENCY AND ACCOUNTABILITY) ACT, 2015
Policy Brief

1.0 BACKGROUND

The Tanzania Extractive Industries (Transparency and Accountability) Act, 2015 came into force on 25th September 2015 following its first tabling in Parliament under a certificate of urgency during the 2015/2016 Budget Parliament and was followed by a ceremonial assenting to by the Fourth President Dr. Jakaya Mrisho Kikwete on 4th August 2015 at State House in Dar Es Salaam.

The main objective of enacting the Act was to establish the Extractive Industries Transparency and Accountability Committee and to provide for its functions and related matters.

The Act is comprised of seven parts, each providing for the following;

a. Preliminary provisions comprising of the title, important definitions and the commencement date.
b. The administrative provisions establishing the TEIT Committee, its composition, powers, functions and providing it with a Secretariat to run the day to day activities,
c. The obligation of extractive companies and statutory recipients,
d. The appointment and functions of the independent administrator/reconciler,
e. How to deal with a discrepancy and the powers of the Controller and Auditor General in relation to such discrepancy,
f. General provisions setting out the sources of funds of the committee, accounting and audit, regulation making, reporting and offences and penalties under the Act.
g. The last part amends different laws related to the Act to harmonise and ensure some thing implementation of the Act.

2.0 KEY ORGANS UNDER THE ACT

The Extractive Industries (Transparency and Accountability) Committee.

The Committee is established under Section 4 of the Act as an INDEPENDENT GOVERNMENT body. The Committee under Section 4 (2) is given powers to oversee the promotion and enhancement of transparency and accountability in the extractive industry which includes all natural resources.

The Committee is supposed to be composed of a Chairperson appointed by the President and not less than 15 other members being persons with experience in extractive industry and nominated from; the government, extractive companies operating in the country and CSOs dealing with extractive industry as follows;

a) Five persons appointed from government entities by the Minister responsible with mining, oil and natural gas (Hereinafter referred to as Minister) one being the Attorney General or his representative,
b) Five persons from extractive industries companies,

c) Five persons from Civil Society Organization,
d) The Executive Secretary who is the Secretary to the Committee,

The Nomination Committee

The Nomination Committee is an ad hoc organ under the TEITA Act; to nominate persons to be appointed as the Chairperson of Tanzania Extractive Industries (Transparency and Accountability) Committee and the Executive Secretary to the Committee.

The Nomination Committee is composed of the following members;

a. The Permanent Secretary of the Ministry responsible for Minerals,
b. The Permanent Secretary of the Ministry responsible for Finance,
c. The Permanent Secretary of the Ministry responsible for Public Service,
d. The Permanent Secretary of the Ministry responsible for Labor,
e. An expert in extractives industry representing extractive companies and,
f. An expert in extractives industry representing Civil Society Organizations.

The Secretariat

The Secretariat headed by the Executive Secretary is established under Section 13(1) of the Act and is charged with the day to day implementation of the activities of the Committee as well as to undertake any function vested on the Committee.

3.0 ACHIEVEMENTS

- The Tanzania Extractive Industries (Transparency and Accountability) Act, 2015 explicitly demands the disclosure of information on local content, corporate social responsibility and capital expenditures as well as disclosure of contracts and beneficial ownership.
- Reconciliation reports provide valuable information about the extractives sector.
- The reconciliation reports have enhanced awareness to the citizen and civil society, increasing policy debate on transparency and accountability.
- The work of TEITI has increasingly been mainstreamed into the government operations; as seen with collaboration between Ministry for Minerals and NRGI to develop a portal for contracts transparency.
- The quality of Multi stakeholder conversation between Government, Civil Society and Private sector has bridge information asymmetry and reduced tension.
- Civil Society has grown stronger through engagement and involvement in TEITI decision making and public events

4.0 CHALLENGES

i. Since 2012 Reconciliation reports were published and as part of the agreement the process started with 2009 when Tanzania joined EITI.This meant the reports were published long after the actual financial year

- The first reports published were only in hard copies and thus not publicly accessible beyond the limited dissemination scope.

ii. The TEITI regulation has not been published yet, making it difficult to operationalize the obligations and rights as stated in the TEITI Act.

iii. The Government has yet to publish revenue collection from mining companies, especially ACACIA alleging that it does not want the debtors to come and demand repayment of the existing loans. This action jeopardize openness and accountability in the mining, oil and gas sector in Tanzania.

iv. Different reporting time between the government and that of the extractive companies, while the government financial calendar ends July, most corporate entities close their annual financial calendar in December.

v. The delays or failure to publish the name of the civil society representative for PWYP sub-constituency since 2015, raises doubt over the acceptance of CSO representative in TEITI operations.

vi. The law requires the committee to promote the effective citizen participation and awareness on extractive industry companies and their contribution to social economic development. However the practice shows limited citizen awareness and engagement in the reconciliation report dissemination.

vii. The public is not well informed of TEITI, the reports and other information are not effectively disseminated and provided in an accessible format so the wider public is both aware it exists and capacitated to use it.

viii. Geographical distribution of civil society's engagement is still not balanced, perhaps the attention is given to the community around mining activities.

ix. Some of the key decision of TEITI are made by the Ministry of Minerals, including budget, employment and procurement hence raising questions over the independence of the TEITI Committee.

5.0 POLICY RECOMMENDATIONS

a) There is urgent need to develop and publish TEITI regulations, since the TEITI Committee cannot claim to be in control without legally having the full backing of the legal instruments. Any action taken by the TEITI Committee can be contested in the court of law.

b) STAFFING AND REPORTING: MSG need to develop its own governing policy as well human resource policy covering staff recruitment, remuneration and development. There is danger ambiguity in using words 'public servants' and lack of clear interpretation of section 13 of TEITI Act.

Section 13: (1) There shall be a Secretariat of the Committee which shall be responsible for implementation of activities of the Committee.

(2) The officers and staff of the Secretariat shall be public servants

It will also address the issue of mandate and reporting order to align staff loyalty and commitment to TEITI structure.

c) FINANCIAL MANDATE: Section 6 (5) and Section 20 of TEITI Act 2015 puts financial responsibility, including budget and expenditure on the TEITI Committee. However the practice shows that Ministry of Energy and Minerals have the budget holders and did not report expenditures to the (then) MSG Committee or the newly constituted TEITI Committee. TEITI Committee need to put in place financial policy and management systems and to take control over its financial planning and reporting.

d) PUBLIC EDUCATION AND VISIBILITY: There is increasing need to engage strongly with the public throughout the year; through awareness raising and promoting dialogue on Transparency and Accountability in Tanzania. Partnership with Civil society and Media could help to reach a wider range of audience including communities.

e) Need to follow-up on discrepancies in the Reconciliation reports given by administrator every year. It is equally important to engage the public upon resolving of the issues inorder to build trust with the citizenry.

LIST OF ABBREVIATIONS

AREMA	Arusha Regional Miners Association
BO	Beneficial Ownership
CAG	Controller and Auditor General
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
TEITA	Extractive Industries Transparency and Accountability
EI	Extractive Industry
EITI	Extractive Industries Transparency Initiative
EU	European Union
FIU	Financial Intelligence Unit
TEITI	Tanzania Extractive Industries Transparency Initiative
MDA	Mining Development Agreement
MSG	Multi Stakeholder Group
NRGI	Natural Resource Governance Institute
PEP	Politically Exposed Persons
PS	Permanent Secretary
PSA	Production Sharing Agreement

3.2. ANALYSIS OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE ACT, 2015

Introduction

The Extractive Industries Transparency Initiative-EITI is a global voluntary initiative between extractive companies, governments of extractive resource rich countries and Civil Societies aiming at enhancing and instilling transparency and accountability along the extractive industry value chain. The initiative started in 2002 and is now implemented by 51 countries globally.

The initiative's main goal is to see that citizens of resource rich countries benefit from such resources by bringing to public scrutiny extractive contracts, opportunities, expenditures and revenues. The initiative has principles and standards which implementing countries are supposed to adhere to. The 12 EITI principles were agreed to by all stakeholders in 2003 a year after the inauguration of the initiative. At the global level the Initiative is governed by the EITI International Board and managed by a Secretariat stationed in Oslo.

The EITI Global Standards are the authoritative guidelines on how countries should implement EITI, these standards have evolved with time as the EITI process got accepted and supported by more governments, companies and CSOs as well as the need for a greater transparency and accountability of natural resources. Initially, the standards began as the 2011 EITI rules which were replaced by the 2013 EITI Standards and later the 2016 EITI which were applicable at the time of this assessment. The 2016 EITI implementation Standards in a nutshell requires EITI implementing countries to;

1. Have an effective multi-stakeholder oversight, including a functioning multi-stakeholder group that involves the government, companies, and the full, independent, active and effective participation of civil society. To achieve this implementing countries are supposed to have; government engagement, industry engagement, civil society engagement, the establishment and functioning of a multi-stakeholder group and the existence of an agreed work plan with clear objectives for EITI implementation, and a timetable that is aligned with the deadlines established by the Global EITI Board.

2. Put in place a transparent legal and fiscal framework in awarding extractive industry rights. Such framework should allow public disclosure and access of license allocations processes, register of licenses, contracts, beneficial ownership and state-participation in the extractive sector.

3. Disclose information relating to exploration and production so as to enable stakeholders know the potentials of the sector for their informed decision making, follow up, advice and accountability. The information required to be disclosed here include; all exploration activities, production data and export data.

4. Disclose in a friendly and ease to follow format, all revenue collected from the extractive industry including; comprehensive disclosure of taxes and revenues, sale of the state's share of production or other revenues collected in kind, Infrastructure provisions and barter arrangements, transportation revenues, State Owned Enterprises-SOE transactions, sub-national payments, level of disaggregation, data timeliness and data quality.

5. Disclose revenue allocations. This requirement obligates governments to disclose information relating to distribution of revenues, revenue transfers to sub national entities for use at the sub national level, which revenues are recorded in the national budget, how extractive revenues are managed and expended at all stages.

6. Disclose information relating to social expenditure and economic benefits and impacts from the extractive industry.

7. Ensure that stakeholders are engaged in dialogue about natural resource revenue management including its outcome and impact to the economy and social well-being of citizens. This requirement ensures that the EITI process feed into public debate, findings from the reports are acted upon in time and EITI implementation is stable and sustainable.

8. Observe the timeframes set by the EITI Global Board. The timeframe to be observed are for issuing/undertaking/ conducting; validation report and annual progress report. This requirement sets out the deadlines and the time to request extensions and the consequences.

At the National level, the EITI process is overseen by a Multi Stake Holder Group-MSG composed of representatives from the Government, extractive companies and civil societies. Once a country commits to implement EITI, the government is required to establish an MSG whose members are chosen from the three constituencies i.e. government, extractive companies and CSOs, these constituencies choose their own representatives to the MSG. After the establishment of the MSG, the MSG would then recruit an independent reconciler who would reconcile payments and receipts of extractive revenues declared by extractive companies and government revenue collectors respectively.

Once the Independent Reconciler has received the declared payments and receipts, he will reconcile them guided by the EITI global standards and come up with a report which shows if there are anydiscrepancies. The report is supposed to be a public document for use by the public in advocating for reforms as well as for decision makers in policy and law making and planning purposes. In case the report shows discrepancies, responsible bodies are supposed to investigate the matter and tress the root of the discrepancy.

a. EITI in Tanzania

In Tanzania, the government was accepted as an EITI implementing country by the EITI International Board on 16 February 2009. Owing to the challenges faced by Tanzania in the early years of implementing EITI due to the voluntary nature of the initiative, Tanzania enacted the Tanzania Extractive Industries (Transparency and Accountability) Act in 2015 so as to make it a mandatory process and thus give it the force of law.

Since 2009 to December 2017 Tanzania has managed to issue 8 reconciliation reports covering extractive operations undertaken from 1st July 2008 to July 2016. These reports have unearthed numerous issues including financial discrepancies and policy issues such as government receiving more revenue from PAYE from extractive companies as compared to revenues directly related to extractive taxes, levies and related charges.

HakiRasilimali being the leading CSO coalition advocating for a beneficial, transparent and accountable extractive industry is seeking to assess the implementation of the TEITA Act of 2015 so as to document the success made and challenges experienced as well.

b. Objectives of the Assessment

The main aim of this assessment is to establish the effectiveness of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015, assess how it has complemented and boosted the implementation of the EITI initiative in Tanzania and document lessons learnt there from.

Methodology

To accomplish this assessment various methods were used. Desk review was conducted on existing legal frameworks, Tanzania EITI validation reports, yearly progress reports, TEITI work plans and activity reports, EITI Global reports relating to Tanzania, reports and publications from CSOs. Focused interviews with selected informants was undertaken to obtain

information on how the enactment of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015 has impacted the implementation of the EITI initiative in Tanzania, the challenges faced, lessons learnt and areas for improvement. Such informants were drawn from the Ministry of Minerals, TEITI Committee, TEITI Secretariat, key extractive companies' staff and representatives in the TEITI Committee, key CSO staff and their representatives in the TEITI Board, academia, key staff from International NGOs working on natural resources, community members especially those residing near major extractive operation sites.

This assessment among others, addressed four major questions in deducing the level of implementation of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015. These questions were;

1. What is the evidence concerning the effectiveness in implementation of the TEITA Act in the governance of natural resources in Tanzania?

2. How has performance been influenced by change agents like civil society organizations or influenced by donor programmes and projects?

3. What are the mediating (explanatory) mechanisms involved in observed performance trends?

4. What underlying factors in the political system and wider society influenced the trends observed?

Background of the Extractive Industry Transparency and Accountability in Tanzania, institutional and legal framework

Tanzania is so far the only producer of Tanzanite with an estimated 12.6 tonnes of proven reserves, the fourth Africa's producer of Gold with an estimated 2,222 tonnes of proven reserves after South Africa, Ghana and Mali. Apart from minerals, Tanzania is believed to have over 57 Tr. Cubic feet of natural gas reserves. Other major minerals found in Tanzania include;

Table 1; Minerals in Tanzania and the extent of their availability

MINERAL	PROVEN RESERVES
Gold	2,222 Tonnes
Diamonds	50.9 million Carats
Tanzanite	12.6 tonnes
Copper	13.65 million tonnes
Nickel	40 Million tonnes
Coal	1.5 Billion tons
Uranium	35.9 million pounds

However, despite Tanzania being the only producer of Tanzania so far, Tanzania is neither the first nor the second major exporter of Tanzanite but rather South Africa and Kenya who are not producers of Tanzanite. Moreover, despite all the reserves mentioned above and the existence of over 53 extractive companies that each paid over TZS 300,000,000 to the government as revenue in the period July 1 2015 to June 30 2016.[1] The sector contributes only 5% to the GDP, 12% contribution to government revenues and 35% on exports.[2]

An Overview of Tanzania Extractive Industries (Transparency and Accountability) Act, 2015

1.1. EITI Before the Enactment of the Act

Before the law was enacted in 2015, still the EITI process was being implemented in Tanzania since its adoption in November 2008. In January 2009 the Multi Stakeholder Group was composed and started working in January 2010. It was not until 2011 when the MSG (Now the TEITI Committee) launched its first Reconciliation Report which covered payments and receipts from 2008 to 2009 involving 11 extractive companies only with one company declining to declare payments.

[1] *Tanzania EITI Report for the Period July 1 2015 to June 30 2016*

[2] *https://eiti.org/tanzania*

1.3. Objective and Structure

The main objective of enacting the Act was to est`ablish the Extractive Industries Transparency and Accountability Committee and to provide for its functions and related matters.

The Act is comprised of seven parts, each providing for the following;

a. Preliminary provisions comprising of the title, important definitions and the commencement date.

b. The administrative provisions establishing the TEIT Committee, its composition, powers, functions and providing it with a Secretariat to run the day to day activities,

c. The obligation of extractive companies and statutory recipients,

d. The appointment and functions of the independent administrator/reconcilor,

e. How to deal with a discrepancy and the powers of the Controller and Audi tor General in relation to such discrepancy,

f. General provisions setting out the sources of funds of the committee, accounting and audit, regulation making, reporting and offences and penalties under the Act.

g. The last part amends different laws related to the Act to harmonize and ensure something implementation of the Act.

1.4. Organs Under the Act

The Act establishes several organs and charges them with different functions and powers as follows;

a. The Extractive Industries (Transparency and Accountability) Committee

The Extractive Industries Transparency and Accountability Committee hereinafter referred to as the Committee is the principal organ under the Act. The Committee is established under Section 4 of the Act as an INDEPENDENT GOVERNMENT body. The Committee under Section 4 (2) is given powers to oversee the promotion and enhancement of transparency and accountability in the extractive industry which includes all extractive resources.

The Committee is supposed to be composed of a Chairperson appointed by the President and not less than 15 other members being persons with experience in extractive industry and nominated from; the government, extractive companies operating in the country and CSOs dealing with extractive industry as follows;

i. Five persons appointed from government entities by the Minister responsible with mining, oil and natural gas (Hereinafter referred to as Minister) one being the Attorney General or his representative,

ii. Five persons from extractive industries companies,

iii. Five persons from Civil Society Organization

iv. The Executive Secretary who is the Secretary to the Committee.

Current members of the Committee and the Executive Secretary are as indicated in ANNEX A of this report.

The Committee is charged with the main function of ensuring that benefits from the extractive industry are constantly verified, accounted for and wisely utilized for the benefit of Tanzanian citizens. To realize that, the Act charges the Committee with among others, the following specific functions;

i. Develop a framework for transparency and accountability for reporting and disclosure of all extractive industry revenues paid or due to the government,

ii. Require an accurate account of all revenues paid to the government by extractive companies and extractive revenue received by a statutory government entity,

iii. Require extractive companies to disclose to it capital expenditures, costs of production, volume of production and export data in respect of each extracting license,

iv. Promote effective citizen participation in the extractive industry and in its contribution to social-economic development,

v. Conduct investigation on material discrepancy on payments from extractive companies and government receipts,

vi. Make reconciliation on payments from extractive companies and government receipts,

vii. Enhance the capacity of government entities responsible in receiving payments from extractive companies whenever necessary following identification of discrepancies,

viii. Publish to the public discrepancies, findings of investigation and/or any other information relating to extractive industry revenue received by the government,

ix. Promote effective citizen participation and awareness in the extractive industry and its social economic benefits,

x. Conduct research to properly discharge its functions,

xi. Oversee the proper functioning of its Secretariat.

b. The Nomination Committee

The Nomination Committee is an ad hoc organ under the TEITA Act established under Section 6 of the Act. The Committee's main function is to nominate persons to be appointed as the Chairperson of Tanzania Extractive Industries (Transparency and Accountability) Committee and the Executive Secretary to the Committee.

The Nomination Committee is composed of the following members;

i. The Permanent Secretary of the Ministry responsible for Minerals,

ii. The Permanent Secretary of the Ministry responsible for Finance,

iii. The Permanent Secretary of the Ministry responsible for Public Service,

iv. The Permanent Secretary of the Ministry responsible for Labor,

v. An expert in extractives industry representing extractive companies and,

vi. An expert in extractives industry representing Civil Society Organizations.

Members of the Nomination Committee as of August 2018 are as indicated in ANNEX B of this report.

c. The Secretariat

The Secretariat is established under Section 13(1) of the Act and is charged with the day to day implementation of the activities of the Committee as well as to undertake any function vested on the Committee if delegated by the Committee. The Secretariat is headed by the Executive Secretary of the Committee and is also the accounting officer of the Secretariat. All officers and staffs of the Secretariat are public servants. Members of staff of the Secretariat as of August 2018 are as indicated in ANNEX C of this report.

d. An Independent Administrator

The Committee is charged with powers to appoint a private firm to act as an independent administrator to verify and reconcile payments made by extractive companies and revenues received by the government over a specific period of time. Upon reconciling declarations of payments and receipts, the Administrator compiles a report which includes the findings of the reconciliation and other information such as investment expenditures, capital, production and exports among others to be considered and published by the Committee. ANNEX D shows the list of past Independent Administrators who have been engaged by the Committee.

[3]*Think of showing the recruitment process by having a column of all bidders.*

e. Other Organs under the TEITA Act

Other state organs established by other laws of Tanzania but have been given specific or general tasks under the TEITA Act include;

i. The President of the United Republic of Tanzania

The President of the United Republic of Tanzania is given powers to appoint the Chairperson of TEITA Committee following his/her nomination by the Nominations Committee.

ii. The Minister responsible with Minerals

The Minister responsible with Mining, Oil and Natural Gas has several functions under the Act which include;

- To appoint four members of TEITA Committee representing the government,
- To announce members of TEITA Committee representing extractive companies and CSOs upon their appointment by their umbrella bodies,
- Receive progress report from the TEITA Committee,
- Receive reconciliation reports and action taken reports from the TEITA Committee,
- Forward to the President the three names of persons nominated by the Nomination Committee to be the Chairperson of TEITA Committee,
- Appoint the Executive Secretary from the three names submitted by the Nomination Committee,
- Upon being moved by TEITA Committee, the Minister will publish extractive contracts, concessions and contracts, individual shareholders of extractive companies, environmental management plans and reconciliation reports,
- Receive the audit report from the Controller and Auditor General following a discrepancy identified by an Independent Administrator,
- Lay before the National Assembly an implementation report of TEITA Act every year,
- Receive the annual audited accounts and activity report of the Committee and lay them before the National Assembly and,
- In consultation with other relevant Ministries, make Regulations for the proper implementation of this Act.

iii. The Controller and Auditor General

The Controller and Auditor General have two roles under this Act which include;

- Upon being moved by TEITA Committee to conduct investigation on a discrepancy identified in the reconciliation report and report findings and;
- To undertake audit on the books of account of the Committee and submit the report to the Committee every year.

iv. Law Enforcement Agencies

Under the TEITA Act, no specific law enforcement agency was mentioned but they have been tasked with the role of investigating and implementing findings of reconciliation reports and investigation reports from the CAG. Such agencies may include; the Police, the Director of Criminal Prosecution, the Solicitor General, the PCCB, FIU among others.

A comparison of TEITA Act requirements and Global EITI Standards and Requirement

- Contract transparency is enshrined in the TEITA Act as required by 2016 EITI Standards. However, until August 2018 no contract had been voluntarily disclosed by the Ministry of Minerals as required by TEITA Act, 2015 and 2016 EITI Standard.
- EITI Standards requires that incase a state participates in the extraction by have an EI SOE then it must disclose all the required information just as other EI companies. The TEITA Act, 2015 does not in any way exonerate Tanzania's EI SOE i.e. STAMICO and TPDC from the required disclosure and

reporting requirements. Despite such adherence to the EITI Standard relating to disclosure by SOEs, this assessment observed that the government made no progress on the disclosure of information related to the state-owned enterprises (SOE) in the petroleum and mining sector and the revenues that accrue from those activities in the 8th TEITI Reconciliation Report.

- Under EITI Requirement 5 on revenue allocation implementing countries are required to report EI revenues allocated or which are used through the national and sub national budgets. This requirement is to the effect that, EITI implementing countries should state what amount of money from the EI sector has been pumped into the national budget of an implementing country so as its people can know how the EI sector is contributing to the provision of social services as well as boosting the economy of the country. While this is a requirement under the 2016 EITI Standards, the TEITA Act 2015 does not require this expressly but rather through the disclosure of all payments to the government and all receipts of EI revenues by all government entities as some revenue going to some government agencies go directly to the government treasury finding its way to the national budget. This assessment found that the recent validation report show that the country has made inadequate progress in indicating which extractive industry revenues, whether cash or in kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the EITI standards requires the allocation of these revenues to be explained and with links provided to relevant financial reports as applicable. This has not been the case in TEITI Reconciliation reports.

- The 2016 EITI Standards require disclosure of information relating to social expenditure. This is not a requirement in the TEITA Act but TEITI has been including Corporate Social Responsibility allocations in it Reconciliation reports though it has been facing challenges owing to the previous voluntary nature of CSR.

The Implementation of the Tanzania Extractive Industries (Transparency and Accountability) Act, 2015

Introduction

TEITA Act was mainly enacted so as to ensure transparency and accountability in the extractive industry by among others, undertaking the following;

i. Developing a framework for transparency and accountability for reporting and disclosure of all extractive industry revenues paid or due to the government i.e. reconciliation reports,

ii. Require an accurate account of all revenues paid to the government by extractive companies and extractive revenue received by a statutory government entity,

iii. Ensure that extractive companies disclose their capital expenditures, costs of production, volume of production and export data in respect of each extracting license,

iv. Conduct investigation on material discrepancy exposed by reconciliation reports,

v. Publish reconciliation reports and all other useful information on the extractive industry to the public,

vi. Enhance the capacity of government entities responsible in receiving payments from extractive companies whenever necessary following identification of discrepancies,

vii. Promote effective citizen awareness thus increase their participation in the sector's governance and value chain directly and indirectly

viii. Increase citizens' social economic benefits from the extractive industry through various interventions and strategies,

ix. Conduct research to enhance transparency and accountability in the extractive industry,

Before the enactment of the Act, the implementation of the EITI process was voluntary and decisions were made basing on a memorandum of understanding between the government and extractive companies. This therefore meant that all commitments did not have legal force and the actors apart from the extractive industries were not legally bound or coordinated to perform their respective roles as the same were not well defined. The lack of legal force rendered the then MSG and its Secretariat inefficient and powerless dependent on political will and the whim of the powers of the day.

An Assessment of the Implementation of the Act from 2015 to 2017

The legislation recognizes the role of a multi-stakeholder group (MSG) to lead EITI implementation in the Tanzania. The MSG is to be composed of five representatives each from the government, extractive companies and civil society. A Chairperson, appointed by the President, will head the multi-stakeholder group.

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 the Tanzania Extractive Industries Transparency Initiative (TEITI)'s yearly publication. Until now disclosure could not be enforced.

The legislation further demands that all new concessions, contracts and licenses, as well as the individual names and shareholders who own interests in companies, are made available to the public.

The law includes penalties for individuals or institutions that fail to provide or provide false information to TEITI upon request. It also promotes citizens' participation and awareness of activities in the extractive sectors and their contribution to development

TEITI institutional arrangement and capacity

TEITA Act established the TEITI Committee to oversee the EITI work within Tanzania, TEITI has a key role to play in furthering transparency and accountability in the extractives sector both as a champion, a watchdog, a coordinating mechanism and a source of information. The tripartite nature of TEITI Committee composition is one of its strength in the governance of extractive resources in Tanzania and in other EITI implementing countries.

While responding on the effectiveness of TEITI Committee in overseeing the implementation of the law, one Committee member pointed out that some TEITI Committee members lack the requisite capacity to execute their duties as well as lack of independence of the Committee as being among the key factors inhibiting successful implementation of TEITA Act. He stressed that while committee members are obliged to make serious scrutiny on the reports submitted by extractives companies, government entities and the independent reconciler, some of them lack the basic knowledge to effectively analyze and comprehend such reports. In his view, there is dire need to empower all Committee members with knowledge, equipment's and assistants to make them more useful.

Further to the foregoing, some respondents viewed the Secretariat's over dependence and attachment to the government as a great hindrance towards executing their day to day roles which basically are supposed to elevate, support and enhance the Committee's work, the Independent Administrator of the 8th Reconciliation Report also observed that the existing relationship between the Secretariat and the Ministry contributes to the dysfunction of TEITI Committee. The researcher also observed a big staff turnover at TEITI Secretariat whereby the initial Officers of the Secretariat whose capacity on EI had been enhanced tremendously by different actors and supporters had left the Secretariat but one owing to several reasons one being end of employment contract as most of them had not been drawn from the Ministry of Energy and Minerals.

Contract disclosure

TEITI Law[4] provides mandate to MSG to move the Minister of Energy and Minerals to disclose Mineral Development Agreements (MDAs) and Production Sharing Agreements (PSAs) signed before and after coming into force of the respective Law. Essentially this is another crucial area which TEITI and the Government ought to champion, working over this requirement, reaching December 15th 2016, the Permanent Secretary (PS) of the Ministry of Energy and Minerals informed extractive companies with MDAs and PSAs on the obligation to comply with the requirement. The PS also asked the extractive companies to communicate any concern regarding the disclosure In January 2017, the then Ministry of Energy and Minerals communicated with extractive companies that had entered mineral development or production sharing agreements with the government. The Ministry informed them that it plans to publish the agreements on its website and requested comments on the disclosure. Two companies, British Gas (which by August 2018 had been taken over by Shell) and Statoil, responded, noting the need to protect proprietary information and to undertake an awareness-raising campaign for the public before the disclosures of the agreements are made. The Ministry replied to the companies and proposed that the two companies and the Tanzania EITI Committee meet to discuss the way forward, unfortunately the information on whether the meeting was held and the details of what was agreed is nowhere to be found.

So far, there is the commitment of NRGI from 2017 to support TEITI in establishing a contract disclosure portal, However the government has not yet provided clearly whether they have subscribed to the idea, thus until August 2018, there was no disclosure of contract made under the TEITA Act. In an interview with the Legal expert and the prominent expert in extractive industries companies regarding the reason behind the reluctance of companies in disclosing contract information, he said he has come across a number of MDA and PSA without noticing any requirement of confidentiality, in his view, the requirement will only be achieved where the loopholes in the law are fixed and the Government is ready and willing to take this the matter serious.

More over the law further complicates the contract disclosure by giving an avenue to the committee to decide on what provisions in the contracts are confidential in which case some information can be drawn from the public disclosure, this will amount to large sections of contracts to remain secret even after the contracts have been disclosed.

Beneficial Ownership

In Company law, a company is a legal entity separate from its shareholders. Moreover, Company law provides a shield of knowing who the actual owners i.e. shareholders and beneficiaries of a company are. In extractive operations, this shield has been abused as such owners and beneficiaries make final decisions which at times are injurious to the host government and public. For that reason, Company law as it relates to extractive companies and securities among others, has changed to pave way for a disclosure of real beneficiaries and owners of extractive companies.

Basically, TEITA Act doesn't fully provides a strict legal environment for the disclosure of beneficial ownership, the current provisions in the law imposes the obligation on the Committee to cause the Minister to publish the names of the owners and shareholders, the focus is shifted from the companies to the Committee and then to the Minister, the gaps bring questions as at what extent and level is minister sufficiently moved.

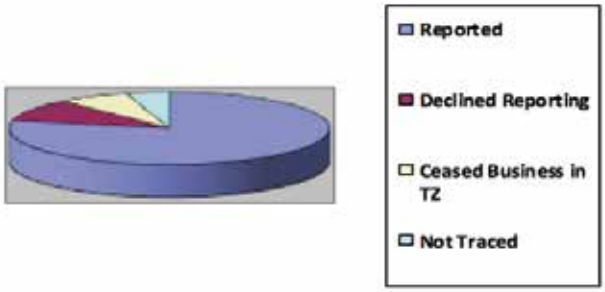
However, since 2015 TEITI Secretariat and MSG have had several initiatives to create a mechanism for collecting and disclosing beneficial ownership information including, developing a definition of beneficial owner, setting ownership thresholds, and drafting the template to be used in collecting information.

On February 23, 2016, TEITI recruited a consultant to undertake a disclosure of

[4] *Section 16(1)a of TEITA Act*

beneficial ownership information of 68 extractive companies in Tanzania. Among other things, the consultant was tasked to review existing laws, with a view to identifying obstacles to disclosure of beneficial ownership information. In June 2017, the report was published and out of 70 extractive companies (2 companies not covered in the 5th and 6th TEITI reports were later added in the list) the part of findings was as summarized in the following pie chart;

Figure 1; Companies responses on BO disclosure findings



In the very same year Tanzania attended the world Ant-corruption summit in London, and once again Tanzania through the Prime Minister, Hon Kassim Majaliwa committed among other thing to ensure beneficial ownership information is publicly available for all companies active in extractive sector, see the picture below;


1 / 1

NTI-CORRUPTION SUMMIT LONDON 2016
COUNTRY COMMITMENTS
UNITED REPUBLIC OF TANZANIA

1. Expose corruption
- companies active in extractive sector.
anzania will review its public procurement procedures to increase transp
educe opportunities for corruption.
ill continue implementing the Addis Tax Initiative and
iew in 2017, with a view to achieving

In June 2017, a consultant submitted the final report which provided an in-depth review of 13 legislations, pointing out several weaknesses and recommendations in respect to disclosure of beneficial ownership information. The consultant recommended the government the following; -

1. Consider enactment of specific legislation requiring the disclosure of beneficial ownership/actual owners of the extractive companies in Tanzania. The legislation should require companies to disclose the actual owners as a condition for the grant and renewal of any licence.

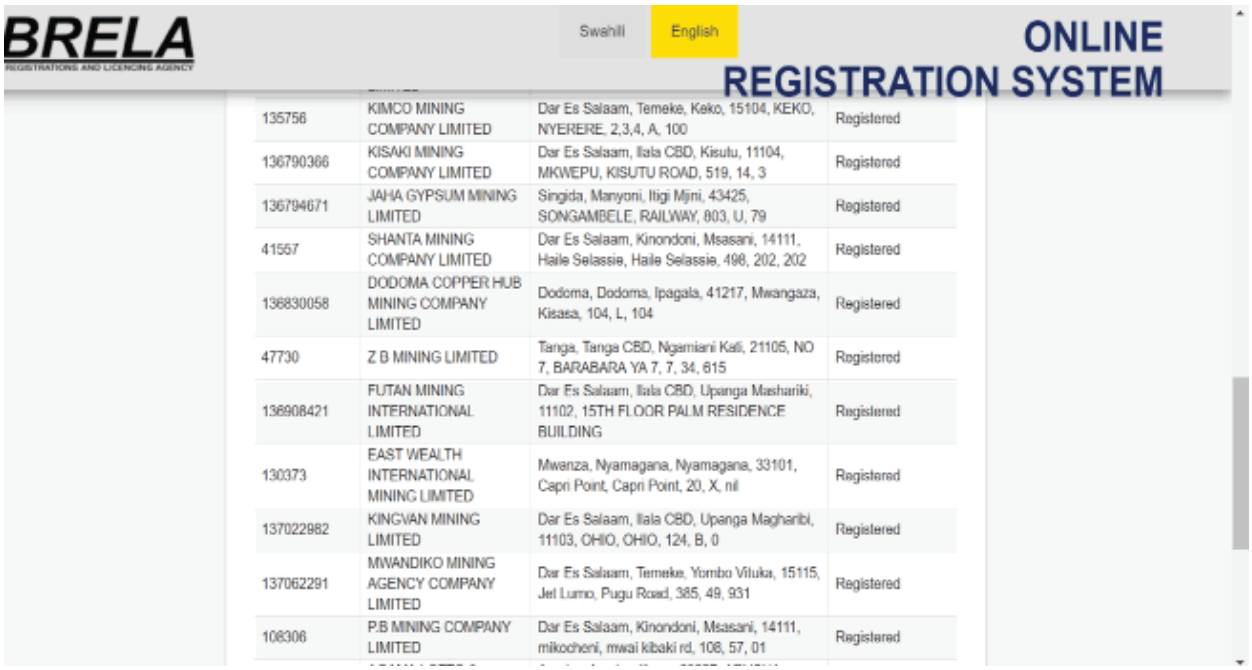
2. In the absence of specific legislation, the Ministry of Energy and Minerals should develop regulations facilitating detailed disclosure of beneficial ownership information.

3. The Government should establish a central register containing information on the beneficial ownership of the extractive companies that is accessible to the public. The Business Registration and License Agency would be the suitable institution to host the central register.

4. Given that the participation of government departments in the present study has been poor as regards to provision of required information compared to the extractive companies, the Government should ensure that institutions with responsibilities relating to disclosure of beneficial ownership actively participate in similar exercises in future

In that report, the consultant further proposed a definition and the rate of materiality threshold for reporting Beneficial Ownership to be of an any person owning 1% or more shares in extractive company. The report further provides disclosure of BO information of the 68 extractive companies that had participated in the reporting of the 5th and 6th Tanzania EITI Reports. However, despite the detailed information, the report failed to consider that the EITI standards requires the disclosure of Beneficial ownership information not just on companies that hold extractives licenses but also any company that applies for the grant.

Further the government has made a number of commitment apart from the legal framework on the disclosure of beneficial ownership, during the 2017/18 budget



135756	KIMCO MINING COMPANY LIMITED	Dar Es Salaam, Temeke, Keko, 15104, KEKO, NYERERE, 2,3,4, A, 100	Registered
136790366	KISAKI MINING COMPANY LIMITED	Dar Es Salaam, Ilala CBD, Kisutu, 11104, MKWEPU, KISUTU ROAD, 519, 14, 3	Registered
136794671	JAHA GYPSUM MINING LIMITED	Singida, Manyoni, Itigi Mjini, 43425, SONGAMBELE, RAILWAY, 803, U, 79	Registered
41557	SHANTA MINING COMPANY LIMITED	Dar Es Salaam, Kinondoni, Msasani, 14111, Haile Selassie, Haile Selassie, 498, 202, 202	Registered
136830058	DODOMA COPPER HUB MINING COMPANY LIMITED	Dodoma, Dodoma, Ipagala, 41217, Mwangaza, Kisasa, 104, L, 104	Registered
47730	Z B MINING LIMITED	Tanga, Tanga CBD, Ngamiani Kati, 21105, NO 7, BARABARA YA 7, 7, 34, 615	Registered
136908421	FUTAN MINING INTERNATIONAL LIMITED	Dar Es Salaam, Ilala CBD, Upanga Mashariki, 11102, 15TH FLOOR PALM RESIDENCE BUILDING	Registered
130373	EAST WEALTH INTERNATIONAL MINING LIMITED	Mwanza, Nyamagana, Nyamagana, 33101, Capri Point, Capri Point, 20, X, nil	Registered
137022982	KINGVAN MINING LIMITED	Dar Es Salaam, Ilala CBD, Upanga Magharibi, 11103, OHIO, OHIO, 124, B, 0	Registered
137062291	MWANDIKO MINING AGENCY COMPANY LIMITED	Dar Es Salaam, Temeke, Yombo Viluka, 15115, Jet Lumo, Pugu Road, 385, 49, 931	Registered
108306	P.B MINING COMPANY LIMITED	Dar Es Salaam, Kinondoni, Msasani, 14111, mikocheni, mwai kibaki rd, 108, 57, 01	Registered

The Minister of the then Ministry of Energy provided update on the implementation of the initiative to the members of the Parliament on the Beneficial Ownership particularly the establishment of a central register for beneficial ownership information of the extractive companies

Furthermore, By December 2017 the Ministry of Minerals formed a task force from TEITI, AG office and Ministry of Minerals to review the consultant recommendations on the beneficial ownership report. Among other things, the task force advised the TEITA Act, 2015 to be amended in order to incorporate the item of fully disclosure of beneficial ownership in extractive industries.

Arguably there have recently been a lot of reforms made in the registration of companies in the country, in which all affairs are done online but item of beneficial ownership disclosure is missing. The information available include registration number and the company address only.

Promoting Effective Citizen Participation and Awareness of Resources Governance

TEITI Committee has an obligation under Section 10(2)(i) to ensure that it promotes effective citizen participation and awareness on resources governance and the contribution of extractive resources in socio economic development. In doing this the Committee with the support of TEITI Secretariat has been publishing the Reconciliation report and distributing it to the public. However, disclosure of extractive industry data is of little practical use without robust and relevant public awareness programs which assist the public in understanding what the figures mean as well as igniting persistent public debate on how resources can be used effectively. TEITI annual progress reports of 2015, 2016 and 2017 show that TEITI conducted several outreach programs in communities which are close to mining, oil and gas operations which are directly impacted by extractive operations so as to ensure host citizen's active participation. The programs involved different media outlets to spread awareness to the general public as well as trainings and workshops to citizens and local government authority office bearers so as to increase public's capacity to call for accountability of authorities in governance of extractive resources.[5]

However, despite all the effort by TEITI, there is still low level of understanding on the extractive sector and the governance of extractive resources by the public as far as accountability and transparency is concerned. Moreover, apart from understanding the extractive sector and its governance, there is little knowledge of TEITI and its work not

[5] *Insert a chart that shows awareness programs from 2015 to 2017*

only by the public but also by civil servants, CSOs and the private sector. Out of 112 randomly reached respondents only 17 could clearly state the roles and undertakings of TEITI. Partly the reason for this is the strategy used in sharing the knowledge whereby efforts of engagement has mainly focused on District Executive Councils, Companies and Councilors and very little the host communities including village Councils and influential persons, leaving the bigger community and small-scale miners unaware of the existing transparency and accountability mechanism and resources such as the Reconciliation reports.

Despite the fact that Tanzania has an estimated 500,000 to 1.5 million artisanal and small-scale miners[6] who are predominantly involved in the extraction of gold and gemstones such as diamond and tanzanite and also play a key role in mineral prospecting, Artisanal and small-scale mining provides significant employment in mining communities and makes major contributions to rural economies in Tanzania. Interviews with leaders of small miners in the selected regions of Mara, Arusha and Dodoma revealed that most small-scale miners who in essence are key actors and directly impacted by large and mid-scale extractive operations have not been reached by TEITI outreach programs and many of them have no or have little knowledge on the governance of extractive resources.[7]

Reading different TEITI work plans, it is evident that, the reporting process and institutional building agendas have dominated TEITI's planned high-level outcomes, while strategic uses of TEITI reports to improve citizens' understanding of the sector's governance has remained at the backyard.[8]

Apparently, it was shocking to learn that even some nationwide CSO working in the promotion of better beneficiation from the extractive industry were not aware of the existing transparency and accountability mechanisms. Those who were partially aware could not explain precisely how those mechanisms worked and were not aware of the number of TEITI Reconciliation reports already released and their findings.

Support, Supervise and Improve TEITI Secretariat

TEITI Committee as the major implementer of the TEITA Act 2015, has a mandate of ensuring that the Secretariat discharges its duties with efficiency and effectively. However, for the Secretariat to be in a position to achieve that, it needs to have an organizational structure which is tailor made to respond to its mandate efficiently. The structure has to outline positions, their roles and responsibilities and how they are delegated, controlled and coordinated.

When undertaking this research, it was observed that, there is an absence of an organizational structure and thus no member of the Secretariat know well his or her duty and thus no one will feel responsible for having or having not undertaken any assignment given at any time.

Moreover, this research found out that it was not until November 2017, when TEITI Committee started to prepare a draft organizational structure and a scheme of services for its Secretariat. by the end of 2017 the draft organizational structure had been submitted to the Ministry of Minerals. By August 2018 the researcher was informed that the TEITI Secretariat organizational structure had been approved and it was before the Ministry of Public services for further official adoption and implementation including recruitment of more staffs.

The Independence of TEITI in Discharging its Functions

According to Section 10(2)(k) TEITI Committee has a role to supervise the affairs of the Secretariat. In that regard it means that the Secretariat is supposed to report and is overseen by the Committee. However in essence the Secretariat does not fully report to the Committee as it has some attachment to the government particularly the Ministry of Minerals, and due to the low staffing and inadequate resources' problem,

[6] *TEITI annual report 2017 page12*
[7] *Source; Combination of Observation and interview*
[8] *Senior officer from the international organization*

[6] *TEITI annual report 2017 page12*

the Secretariat's attachment to the government has grown even bigger, the fact that some key units and functions such as Procurement and internal audit are still in or under the Ministry of Minerals this trades off the independence of the Secretariat and the Committee as a whole. Moreover, some Committee members noted that the Secretariat is at times in a dilemma of who to report to between the Ministry of Minerals and TEITI Committee. Though this problem is contributed by the confusion caused by Section 12 (1) whereby TEITI Executive Secretary is appointed by the Minister for Minerals and Section 13(2) which designed all TEITI Secretariat staff as public servants still the independence of the Secretariat is undermined by factors which are avoidable and can be curbed by the TEITI Committee if they are jealous of their mandate and exercise it to the fullest. Furthermore, it was observed that a number of unnecessarily lengthy bureaucratic processes have been a hindrance to the execution of TEITI activities. Such processes could have been avoided if the Secretariat had all the Key units in place, for example, procurement of urgent services which involve short deadlines undergo government procurement processes which amount to unnecessary delays thus causing a late and unjustifiable delays in the production of EITI reports. A good example was the late procurement of an independent reconciler delayed the 2012/2013 and 2014/2015 reports which negatively impacted Tanzania's global compliance status leading to Tanzania's temporary suspension from the initiative at the global level.

In some interviews with some TEITI staffs on the independence of the Secretariat and its attachment to the government the interviewed staffs confessed that under the current dispensation it was impossible not to report directly to the government as almost everything in terms of administration is facilitated by the Ministry of Minerals.

All these prove that the TEITI Committee has not effectively discharged its mandate independently as an independent institution as the Secretariat is simply its instrument to deliver its mandate under the TEITA Act, 2015.

3.2.7. Investigating Discrepancies

TEITI Committee is required under Section 10 (2)(e) to investigate all discrepancies that will be observed after a reconciliation process. Moreover, under Section 18(1) the Committee is required to submit a reconciliation report which has material discrepancy to the Controller and Auditor General for investigation within 14 working days after receiving the report. During the research it was noted that though reconciliation reports have been submitted to the CAG and that the CAG's office has been working on them but there has been delays in accomplishing such investigation. Moreover, apart from delays in conducting investigation, there are further delays in implementing the findings and recommendations of the investigation report.

Before the enactment of TEITA Act, 2015 the delays were partly caused by the fact the MSG had to ask the Ministry of Minerals and Energy to ask the CAG to conduct the investigation as they had no such powers. With TEITA Act in place the Committee can invoke the powers of the CAG directly and thus further delays are unjustifiable. Despite the Committee having such powers still delays have persisted and a case at hand is the 8th TEITI report which cover reconciliation of payments and receipts for 2015/2016 which identified some discrepancies but investigation by the CAG was yet to be out by August 2018.

Though there have been several external factors for the delay, the major internal factor was the absence of requisite Regulations to guide the Committee and the CAG.

Support of Responsible Ministries

As highlighted in Chapter two of this report, the Ministry of Minerals and the Ministry of Energy (owing to the restructuring of the then Ministry of Energy and Minerals) have some roles to play under the TEITA Act. Currently the Ministry of Minerals plays most of the roles bestowed on the two Ministries and

the researcher observed that some of those roles are now effectively discharged as required by the Act. For example, the Ministries are charged with a role of submitting EITA Act implementation reports to the National Assembly, since the reporting period 2015/2016 the TEITI implementation and audit report have been reflected in the Minister Budget speech and are available in the parliament website.[9] More over with the support of the Ministry, the government has increased its financial support to TEITA Committee activities in the period 2018/2019 to TZS 258 billion from TZS 107 million in the period 2017/2018 as funding from the development partners was missing. The researcher was also informed that with the support of the Ministry of Minerals and the Ministry of Energy, the Regulations under the TEITA Act, were being developed and had reached an advanced stage.

Submission of Corporate Social Responsibility Reports

Under Section 15 of the Tanzania Extractive Industries (Transparency and Accountability) Act, extractive companies are required to submit annual report on CSR projects to the Tanzania EITI Committee.

This requirement has been partially implemented as the Committee has not been receiving complete CSR reports but rather the Independent Administrator has been receiving CSR payments and has been including them in the reconciliation reports (Except the 8th Report) without reconciling them due to the difficult associated with reconciling such payments as they are spending paid to different entities including non-state actors and at times individuals.[10] This arrangement of securing CSR payments through the Independent Administrator does not meet the requirement of the law as only those companies who are above the reporting materiality level will report CSR payments leaving many other companies from reporting such payments. As Section 15 compulsorily require all extractive industry companies to submit CSR reports regardless of the materiality threshold that should be adhered to.

With the 2017 amendments to the Mining Act, 2010 corporate social responsibility has been made a compulsory contribution which should be planned in collaboration with host communities. During the assessment the researcher was informed that corporate social responsibility guidelines as at the drawing table thus hopefully with those guidelines in place, TEITI Committee will be able to ensure that they receive CSR reports from all extractive industry companies.

The influence of Civil Society organizations and donor community on the progress of the law

Once a country commits to implement the EITI, it is supposed to establish a Multi Stakeholder Group-MSG comprising of representatives from the government, extractive industry companies and CSOs. The MSG is further required to develop a three years strategy and a coasted annual workplan which is supposed to be funded by the government and in case of shortages by development partners. CSO and companies as part of the initiative are also expected to support the initiative in different ways. In Tanzania, CSO and development partners have been supporting TEITA in different ways as captured below;

Civil Society Organizations Contribution

Responding to the question on the contribution of the civil society in the success of TEITI in country, members of TEITI Committee representing commended the contribution of CSOs Particularly HakiRasilimali and its allies in strengthening their capacity on the EITI process, they admitted that capacity sessions organized by CSOs have been of great assistance to their capacity and eventually performance as CSO representatives at the Committee, they noted that TEITI involves processing and analyzing complex data which surely requires regular capacity building and mentoring from stakeholders as government resources are limited. In an interview with HakiRasilimali, the researcher was informed that

[9] *2018/19 MoM Budget speech, page 51 and 52*
[10] *Final Annual Progress Report January-December 2015 TEITI*

HakiRasilimali alone had conducted three capacity building sessions with members of TEITI Committee representing CSOs.

Moreover, through an interview conducted with small scale miners at Mererani mining site and members of Arusha Region Miners Association (AREMA) regarding their knowledge on EITI and TEITI framework in Tanzania. They confessed to have a training conducted by HAKIMADINI, as the only session which introduced and made them to know the EITI process, TEITI and how they can assist in getting information relating to the extractive industry and its governance.

In the policy and legal framework reforms, it was noted that different CSOs under the coordination of HakiRasilimali have been arguing for reforms that will ensure that Tanzania fully benefits from its resources, he provided that civil society fully engaged as key stakeholders in the legislative process of enacting3 extractive related Bills by the parliament. Those Acts included the Written Laws (Miscellaneous Amendment) No. 4 Of 2017; Natural Wealth and Resource Contracts (Review and Renegotiations of Unconscionable Terms) Act 2017 and the Natural Wealth and Resources (Permanent Sovereignty) Act 2017. Moreover, CSOs have been actively involved with or without invitation in the process of making different Regulations and in championing some amendments to different extractive related laws including the TEITA Act itself.

Civil Societies in Tanzania working on issues relating to the extractive industry have also been organizing a national annual conference on extractives where different stakeholders including government representatives, extractive industry companies, small scale minors, civil society organizations, members of the public, academia and development partners do attend and discuss matters relating to the extractive industry. These annual national conferences have been organized since 2011 and is a good platform for all stakeholders to meet, discuss and agree on numerous issues impacting the extractive industry and the community.

Moreover, CSOs have not only contributed remotely to TEITI operations but the CSO representatives are increasingly speaking as one voice which is crucial for ensuring that they have significant influence on decisions. For example, in 2017 the Civil Societies Organization constituency in TEITI Committee recommended the use of a private firm to draft Regulation under the TEITA Act as lawyers from the Ministry of Minerals and the Attorney General's office could not undertake that role as according to them, they were not conversant with global EITI and TEITI standards, guidelines and workflows.

Development Partners' Contribution

During this assessment It was noted that the extractive sector is directly supported by few development partners but there are tremendous outcomes achieved through donor community collaboration and partnership with Civil society, TEITI, Parliament and the government has helped in achieving the successes of transparency and accountability in the extractive sector.

The Natural Resource Governance Institute-NRGI one of the key Stakeholder in the promotion of transparency and accountability in the country is currently supporting TEITI to implement the requirements in the TEITA Act 2015 for disclosure of extractives contracts and beneficial ownership information. They are also supporting TEITI to start visualizing some of the information that they publish in their reports on their website.

Responses obtained from interviewees indicated that NRGI has been supporting different voices in arguing for constructive reforms in the extractive industries and have been building the understanding and capacity of key stakeholders, including Members of Parliament, relevant Parliamentary Standing Committees, CSOs and TEITI Committee and Secretariat through organizational support, capacity building, technical assistance and financial support.

Further to that, NRGI runs a program designed at assessing the performance of the

government in the governance of natural resources in the country thus eventually pushing government's compliance to international standards. NRGI Resource Governance Index produced every year assesses and ranks the governance of the extractives sector in resource-rich countries, including Tanzania. This index focuses on transparency of what is in the law and what is implemented.

Furthermore, NRGI has a number of databases that compile and present extractives documents and data in an accessible format.
https://resourcecontracts.org/ compiles all published contracts; resourcedata.org compiles publically available data, including government revenues reported through EITI; and resourceprojects.org compiles data on payments to government.

Other development partners who have supported the implementation of TEITA Act directly and indirectly include; Swissaid, Oxfam Tanzania, Hivos and Wellspring who have been supporting CSOs engaging in TEITI work. Others include the European Union-EU, CIDA through Global Affairs Canada, World Bank (sometimes in 2010 and currently has pledged to support again), Norwegian Embassy, UNDP, African Development Bank and again NRGI who directly support the EITI Committee financially and technically.

Influence of the Changing Political Dispensation

Political system is one of the enabling factor which shaped and is still shaping the existing trends on the promotion of transparency and accountability in the Extractive sector.

Low Benefits from the Extractive Industry as a Political Agenda by the Opposition

The rising popularity of opposition party and their manifesto on Natural resources, many of the changes were first suggested by the political opposition and have proved wildly popular with voters in Tanzania, the interview with political fellows in the field viewed the current trends as meant to empty the opposition political agenda which made the side popular before 2015, the coming in office of the 5th regime started to push the opposition agenda.

3.3.1. The President's Personal Desire and Push for Greater Benefits from the Extractive Industries

The 5th administration under His Excellence President Dr. John Pombe Magufuli had a quest and political will of seeing the extractive industry benefiting the country more than investors. Under its desire to attain an industrial economy, the government committed to exploit all avenues so as to realize its target. This became a driving factor in shifting from resource liberalization to resource nationalism which has seen so many changes in the extractive industry legal framework in the past three years one being laws requiring more transparency and accountability.

3.3.2. Pressure and Support of the Parliament

The pressure from parliamentarians and the Public Accounts Committee of the parliament, and the order of the parliament standing committee to apprehend the then acting chairperson and the executive director of the TPDC sent a message to the government on the seriousness of law makers in the governance of the natural resources and hence stimulated the implementation of the TEITA Act 2015 and the reforms of other policies and laws in the sector

3.4.4 Politician stake in the extractive industries companies

Opaque extractives company ownership structures mask the potentially problematic interests and influence of certain persons, the arrangement in some of companies accommodate secret owners who are directly or indirectly holding public offices, the group can play an awful influence when the government is making deals with the extractive government which later create an avenue of corruption and frauds. In most cases these figure play their best role to ensure the transparency campaign do not damage their interest thus given their position, network and influence in the decision making, negatively affect the

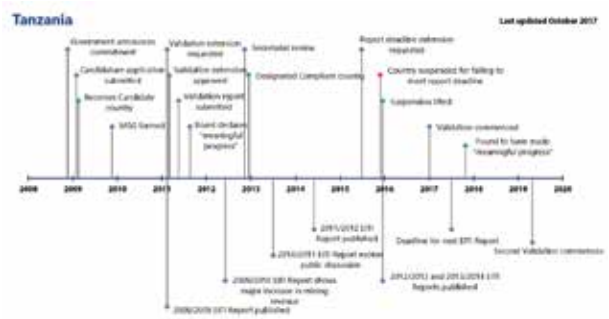
implementation of the transparency mechanism in the extractive industries, one of the recent investigation report commissioned by the President on the extractive sector implicated some of Ministers with corruption in the contracting and licensing of extractive companies

Achievements, Challenges and Recommendation

4.1. Achievements

By and large, the implementation of TEITA Act 2015 for the past two years leveraged transparency and accountability in Tanzania in ways that have never been experienced before the enactment of that law. The figure below is a chart which virtually captures timelines in the implementation of EITI in Tanzania. It also depicts the successes and challenges faced before and after the TEITA Act.[11]

Figure 2; trends of EITI in Tanzania from 2008



Some of the major achievements include;

4.1.1. Mandatory Implementation of the EITI

Before the enactment of the TEITA Act disclosure was voluntary. However since 2015 the disclosure of government receipts from extractive industry companies and payment to the government by extractive companies was made mandatory. Reconciliation reports show that, some companies as well as government entities declined to provide information in the past. For example in the first report EL-Hilal a mining company declined to share information of its payments.

4.1.2. Disclosure of More Useful Information and Data

Before the enactment and implementation of the TEITA Act 2015, Tanzania EITI reports mainly covered company payments, government receipts and data on production and exports. With the enactment of TEITA Act, 2015, TEITI reconciliation reports cover more information on local content, corporate social responsibility and capital expenditures. The law also requires the disclosure of contracts which the Committee is yet to implement. More, the law requires the disclosure of information on beneficial ownership, this requirement led to the publication of a report on beneficial ownership by TEITI in June 2017 which disclosed the beneficial ownership of 68 mining, oil and gas companies covered in the 5th and 6th TEITI reconciliation reports.

4.1.3. Disclosure of Extractive Contracts, MDAs, PSAs and Concessions

The EITI standards, processes and requirements demand the disclosure of mining, oil and gas concessions, MDAs, PSAs and contracts. Before the enactment of TEITA Act, both the Mining Act 2010 and the repealed Petroleum Act 2008 outlawed the disclosure of mining, oil and gas contracts without written consent of both the government and the investor. That position of law has been changed by Section 16 (a)(1) of TEITA Act which requires though not mandatorily the publications of extractive contracts and concession. Though such contracts and concessions were not yet been made public by August 2018, this assessment noted commendable progress on the part of the Ministry of Minerals in ensuring that mining, oil and gas contracts and concessions are made public as captured above in this report.

4.1.4. Adopting Enabling Regulations

Full implementation of TEITA Act 2015 can be realized only if all the requisite underlying Regulations are enacted. By August 2018, such Regulations were yet to be finalized and operationalised. However, this assessment observed good progress in developing the Transparency and Accountability

[11] *https://eiti.org/tanzania#implementation Accessed on 26th September 2018 at 4:19 PM.*

Regulations. The government committed to adopt them by the end of December 2018 following efforts and a push from the Civil Society constituency in the Committee.

4.1.5. Increased Coordination of Actors and Stakeholders

With the enactment of TEITA Act 2015, issues relating and supporting transparency and accountability are now coordinated by TEITI Committee supported by its Secretariat. The work of different government Ministries, Departments and Agencies relating to transparency and accountability have been consolidated and coordinated by TEITI Committee to improve transparency and accountability of the extractive industry. For example, the Ministry of Minerals is currently developing a portal for resource transparency, this portal will integrate data of the Ministry with those of different agencies within the government which are responsible in one way or another for the management and/or revenue collection in the extractive industry. Such agencies include the Geological Survey of Tanzania, STAMICO, TPDC, Local Government Authorities and the Tanzania Revenue Authority. Data from Tanzania EITI reports and contract disclosure will be included in the portal, which will allow users to access multiple datasets including geological, environmental and fiscal information.[12]

4.2. Challenges

4.2.1. Timely Reporting and Action on Discrepancies

Reconciliation reports provide valuable information about the extractives sector. One key constraint to the value of reconciliation report the lateness of their reporting, being published long after the year such payments and receipts were actually made diminishes the opportunity to make meaningful policy changes. Some of the reports are published after a lapse of three years making the post publication debate and discussion by decision makers and the public less valuable. For example, even the latest published 8th Reconciliation report which was published in March 2018, it covers payments and receipts from 1st July 2015 to 30th June 2016. That is almost 2 years after the payments and receipts were made and received.

4.2.2. Unfriendly Reporting Format

The information published is not provided in an easily useable format so that the wider public and media can easily comprehend and thus use the report to demand accountability. All the 8 TEITI reports were in English and contain complex tables and matrixes which can only be comprehended by elite citizen. So far TEITI has not issued abridged versions of these reports and thus the reports remain largely unpopular to the greater public and citizens.

4.2.3. Delayed Regulations

Though the Ministry of Mineral promised to adopt the Regulations by December 2018, it has taken long to have them in place and thus delaying the implementation of the Act. This has adversely impacted the implementation of TEITA Act.

4.2.4. Uncertainty in Nominating and Pronouncing Committee Members from CSO

On 7th May 2016 CSOs met to elect 5 representatives to the 3rd TEITI Committee (MSG), however the Minister took unnecessarily long time to publish the name of one civil society constituency representative in the MSG as required by Section 5(5) of TEITA Act. This delay adversely impacted the work of CSOs in TEITI Committee and created a sour relationship between the Ministry and the CSOs constituency.

4.2.5. TEITI's Low Popularity

The public and some extractive companies as well as some government entities are not well informed of TEITI, its role, the reports and other TEITI undertakings. For example in the 8th TEITI Reconciliation Report, it has observed that some extractive companies were not aware of the existence of TEITI and why they were required to report payments. Likewise, some government officials from reporting government entities were not aware of TEITI undertakings as some were newly employed and others shifting in from other government departments. This shows that

[12] *Teiti annual report 2017*

4.2.6. Ministry of Minerals Plays Double Roles and thus can Undermine Investigation

The Ministry of Minerals is both a reporting government entity as it receives some EI payments such as royalties, rent and application fees and at the same time it plays an oversight role especially in relation to investigation of discrepancies and implementing findings of the CAG following an investigation. In case the findings are prejudicial to the Ministry, it is natural that the Ministry may dilute or neglect its oversight role if there is little or no public push for accountability.

4.2.7. Absence of a Dispute Resolution Mechanism within TEITI

TEITI being a tripartite entity is fraught to misunderstandings and disputes arising from opposing interests. That being the case, a mechanism for dispute resolution is inevitable for its sustainability. Moreover, being a multi stakeholder entity, TEITI requires guidelines to guide all its undertakings, stating the roles, timing and limitation of each actor so as to avoid overlaps and delays by the different actors. For example, due to lack of guidance on how representatives from CSOs and Companies are nominated, there was a delay of over a year in the announcement of the civil society constituency MSG representative thus impacting the work of TEITI and the relations of MSG members.

4.2.8. Geographical Bias of Awareness Raising and Capacity Building Interventions

Geographical distribution of TEITI and Civil societies engagement on awareness raising and capacity building is still not balanced, as observed by this assessment, much attention is given to communities around mining activities, Again, much as key actors like HakiRasilimali and allies focus is policy engagements, awareness component has been overlooked leaving big population unaware of the basics in the extractive sectors, few of awareness programs are concentrated around lake zones and northern zone. For example TEITI rolled out a bill board campaign but restricted it in Geita and Kahama only.

4.2.9. Lack of Independence and Sufficient Resources by the Committee

TEITA Act 2015 establishes the TEITA Committee as an independent government entity to oversee transparency and accountability of the extractive sector. Unfortunately, apart from designating it as a government entity, the Act goes further to make the Committee's Secretariat staff to be public servants headed by the Executive Secretary an appointee of the Minister and the accounting Officer of the undertaking. All these jeopardize the independence of the Committee and injure its oversight role as enshrined in the 2016 EITI Global Standards. Moreover, less staffing and absence of some structural and functional Units like the Accounts and procurement at the TEITI Secretariat renders the Committee totally dependent on the Ministry for Minerals.

4.2.10. Lack of a Mechanism within TEITI to ensure EI Benefits the Greater Public

One of the TEITI responsibilities under TEITA Act, 2015 is to ensure that the extractive industry benefits are utilized for the citizens of Tanzania. However, apart from ensuring disclosure and investigation of discrepancies, TEITI has not taken any step to ensure increased citizen benefits from the EI as there is no feasible mechanism under TEITA Act or any other law which the committee can use to exercise its role as provided.

4.3. Recommendations

Owing to the observations and findings above, it is recommended that;

4.3.1. TEITI Independence

TEITA Act should be amended to remove all elements that hinder the Committee's independence. EITI as a tripartite initiative should remain independent of the three constituencies which form it. Any inclination to any of its constituencies jeopardizes its work and the faith and support of the other constituencies. The Committee should establish the Secretariat and be allowed to employ and manage its own well trained staff. Moreover, the Committee should have its own budget vote so as to avoid it being accountable to the Ministry.

4.3.2. The Legal Framework Relating to Beneficial Ownership Information

Collection of Beneficial ownership information by TEITI faced a number challenges one being the restrictions and weakness embed in different laws. It is recommended that all the laws identified by the first TEITI beneficial ownership report should be amended to remove all the legal hindrances to BO reporting.

4.3.3. Robust Awareness Raising Initiative

The wider public is not aware about what is going on with specific reference to both Tanzania EITI process and in the EIs at large. This requires putting in place and implementing a robust and countrywide communication strategy to ensure that the majority, if not all Tanzanians, are aware of the current issues relating to the extractive industries, operators, fiscal aspects of EIs as well as environmental and human rights issues relevant to EIs activities in the country.

4.3.4. Extractive Industry Benefit Distribution and Management

Resource transparency and accountability is a good mechanism to guard against resource misuse and embezzlement. However, resource accountability and transparency does not automatically translate into equitable natural resource distribution and beneficiation. While the main objective of the TEITA Act 2015 is to ensure that the greater public benefits from the extractive industry, the Act does not put in place a mechanism for TEITI Committee to go an extra step from transparency and accountability and ensure that natural resources revenue is used for the most opportune socio economic benefits of Tanzanians.

4.3.5. Harmonising Cross Cutting Laws with EI Related Laws

This assessment and other EI related reports have in one or another shown that there is a dire need to harmonise different laws to make them march with the intent and spirit of TEITA Act 2015. Before the enactment of TEITA Act 2015, there were several laws which outlawed information sharing and disclosure of information relating to the government and business entities. Though many if such laws were amended, there remain some which still hinder smooth implementation of the EITI process in Tanzania. Such laws have been identified and all that remains is a political will to amend them so as to accord the EITI process smooth implementation.

Annex:

MATARAJIO NA MAPENDEKEZO YA HAKIRASILIMALI-PWYP KUHUSU BAJETI YA WIZARA YA MADINI MWAKA WA FEDHA 2018/19

UTANGULIZI

Sekta ya uziduaji (madini, mafuta na gesi asilia) ni kichocheo kwa ukuaji wa uchumi wa nchi. Kwa ukubwa wake, sekta hii inakadiriwa kuwa na thamani ya shilingi za Kitanzania milioni 4,975,991. Na huchangia asilimia 4.8 ya Pato la Taifa. Kwa sababu hii, sisi HakiRasilimali-PWYP, jukwaa la Asasi za Kiraia linalochambua sera na kufanya uchechemuzi katika sekta hii nchini Tanzania, tumefuatilia kwa umakini mwelekeo wa kisera na majadiliano na maoni mbalimbali kwa shauku kubwa katika kipindi cha mwaka mmoja uliopita.

Kwa minajili hiyo, tumejadili na kuchambua mwelekeo wa kisera katika sekta hii kwa lengo la kutoa maoni yetu ili kuainisha maeneo yanayohitaji kupewa kipaumbele kwenye Bajeti ya Wizara ya Madini kwa Mwaka 2018/19. Lengo kuu ni kuboresha usimamizi na kuhakikisha kwamba mapato yanayopatika katika sekta hii yanaleta tija itakayochangia kwenye kunufaisha Watanzania kwa ujumla.

MWELEKEO WA KISERA

Awali ya yote, tunaipongeza Serikali ya Awamu ya Tano kwa uthubutu na msimamo wa kuuhisha mjadala wa kitaifa kuhusu usimamizi wa rasilimali za nchi na manufaa yake kwa umma pamoja na dhamira iliyoonyeshwa ya kuanisha mchakato wa mapitio ya sheria zote zinazosimamia sekta ya madini. Katika jitihada hizi tumeona mabadiliko yafuatayo:

1. Muundo wa Wizara: Katika kuongeza ufanisi katika sekta ya uziduaji, Wizara ya nishati na madini mwaka wa fedha 2017/18 iligawanywa na kuwa wizara mbili; wizara ya Nishati na Wizara ya Madini, ambapo Wizara ya Madini ina idara tatu (3) (sera , mipango na idara ya madini) kwa ujumla wake wizara ina vitengo sita (6) na taasisi sita (6); Taasisi ya Uhamasishaji Uwazi na Uwajibikaji-TEITI, Chuo cha Madini, Kituo cha Jemolojia Tanzania, Shirika la Madini la Taifa-STAMICO na Tume ya Madini. Mgawanyo huu utasaidia kuongeza ufanisi katika ukusanyaji mapato kutoka vyanzo mbalimbali kupitia taasisi za Wizara na vilevile kuboresha matumizi hasa katika kuboresha uwezo wa usimamizi wa sekta hii muhimu.
2. Utekelezwaji wa sheria nchini: Miongoni mwa majukumu yake, Wizara ya Madini inapaswa kubuni, kuandaa na kusimamia sera, sheria, mikakati na mipango katika sekta ya madini. Lakini pia kusimamia na kuhamasisha shughuli za uchimbaji na utafutaji wa madini.
3. Marekebisho ya sheria: Kwa mwaka wa fedha 2017/18, tumeona kufanyika kwa marekebisho ya sheria ya madini ya mwaka 2010 kupitia Sheria ya Marekebisho Anuai ya Sheria Na. 7 ya Mwaka 2017 ambayo imepelekea ongezeko la mirabaha kutoka asilimia nne (4) hadi sita (6); kutungwa kwa kanuni za kukuza ushiriki wa wazawa (2018), lakini pia kuundwa kwa tume ya Madini.
4. Ulizi wa rasilimali madini: Mwaka wa fedha 2017/18, tumeshuhudia ujenzi wa ukuta wa kilomita za mraba 15 kuzunguka eneo la Mererani na kulinda madini ya adimu duniani ya Tanzanite ili kuwezesha upatikanaji wa kodi itokanayo na mauzo ya madini hayo kwa urahisi.
5. Mpango wa uhamasishaji uwazi na uwajibikaji Tanzania: Mpango wa uwazi na uwajibikaji Tanzania katika sekta ya mafuta, gesi na madini uko chini ya sheria ya Uwazi na Uwajibikaji ya mwaka 2015 unaongozwa na mwenyekiti huru na wana chama kutoka mashirika ya kiraia, makampuni na Serikali. Kikundi hiki kinahaki kisha kuchapishwa kwa ripoti ambazo zinapatanisha malipo ya kampuni na mapato ya serikali kutoka sekta ya ziada. Kwa kipindi cha miaka mitatu (3) ya utekelezaji wa sheria ya Uwazi na Uwajibikaji, Sheria hii, imeweza kuongeza

uaminifu wa data kwenye sekta, hasa katika machapisho ya ripoti za uwazi na uwajibikaji kuhusu malipo, mapato, uzalishaji, utawala wa kisheria na fedha, makampuni ya mafuta na gesi, upatikanaji na uaminifu wa data kwa kutoa ripoti kila mwaka ambayo inapatikana kwa umma kupitia tovuti ya taasisi ya uwazi na uwajibikaji (ripoti ya nane hadi sasa inayoonesha makadirio ya mwaka wa makusanyo 2015/16). Mbali na hilo, tunapongeza jitihada za serikali katika kutatua changamoto zilizojitokeza kwa mfano uwakilishi wa asasi za kiraia (PWYP) katika mpango wa Uwazi na Uwajibikaji (TEITI-MSG)

Hata hivyo TEITI imekua ikitengewa pesa kidogo sana kutoka serikalini na kutegemea ufadhili mkubwa kutoka kwa wahisani kutoka nje ya nchi kitu ambacho kinafanya kazi za taasisi hii kususua na kukosa uhakika haswa wakati huu ambao michango ya wafadhili kutoka nje ime-kwisha.

CHANGAMOTO KATIKA UTEKELEZAJI WA SHERIA

Licha ya jitihada zilizofanywa na zinazoendelea kufanyika katika kuboresha sekta hii, mfumo wa kisheria, licha ya kuwa na idadi ya sheria zinazohusu masuala yanayohusiana na umiliki wa manufaa, haitoshi katika ufanisi wa masuala ya kukabiliana na matatizo na changamoto zinazosababishwa na ukosefu wa kutoa taarifa ya kuridhisha kwa sababu zifuatazo:

1. Usimamizi: Sheria ya Uwazi na Uwajibikaji kwa muundo mpya, itasimamiwa na Wizara ya Madini. Ndani yake ikiongelea uwazi na uwajibikaji pia katika maswala ya nishati nchini. Kwa mantiki hiyo, muundo huu mpya haujatoa vielelezo vya kutosha namna gani sheria hii imegawanya majukumuu kati ya wizara mbili yaani Wizara ya Madini na Wizara ya Nishati.

2. Kanuni: Sheria hii inalenga kuongeza uwazi na uwajibikaji katika sekta ya madini, mafuta na gesi nchini. Chakushangaza, hadi sasa sheria hii imekua ikifanya kazi bila kuwepo kwa Kanuni na Taratibu jinsi gani sheria inaweza kutekelezwa.

3. Uwazi wa mikataba na umiliki wa makampuni: Kusudi kuu la Sheria ya uwazi na uwajibikaji ni kutoa ufafanuzi kamili wa uwazi wa mikataba na mmiliki katika makampuni ya sekta ya uziduaji Tanzania. Sheria inataka kuwepo utaratibu wa kufungua/ kuweka wazi mikataba (MDAs na PSA) na kuainisha wamiliki halali wa makampuni wanaonufaika kutoka kwa serikali na makampuni husika. Kwa kujua wamiliki wa mwisho wa kampuni, shughuli za sekta ya madini na uziduaji kwa ujumla zitaweza kuwa wazi zaidi. Hata hivyo sheria inatoa mwanya mbaya kwa kumpa mamlaka Waziri kuweka wazi majina ya wamiliki wa makampuni badala ya makampuni yenyewe hivyo kuruhusu jambo liwe la MAAMUZI ya MTU BINAFSI badala ya takwa la kisheria. Lakini pia mfumo huu wa kisheria hauna uwezo wa kutosha katika kukabiliana na masuala na changamoto kwa ufanisi kutokana na kukosa taarifa ya kutosha katika sekta ya madini, mafuta na gesi nchini. Mbali na hivyo hakuna kanuni zinazoelezea uwazi na umiliki katika sekta ya madini

MAKADIRIO YA MAKUSANYO KWA MWAKA 2018/2019

Uchumi wa nchi unaonekana kukuwa kwa wastani wa 6.8% Katika kipindi cha robo tatu za mwanzo za mwaka wa fedha 2017/2018, na shughuli za madini zikionekana kukuwa kwa kasi zaidi kwa 24.3% ukiliganisha na sekta nyingine. Kutokana na ukuwaji huo wa kasi na mwenendo wa kibajeti hususani kwa makusanyo yanayofanywa na wizara husika kwa kipindi cha miaka miwili iliyopita, inatoa muelekeo wa ongezeko la ukusanywaji wa mapato katika sekta na wizara husika kwa mwaka 2017/2018. Kati ya mwaka wa fedha 2015/2016 iliyokuwa Wizara ya Nishati na Madini ilikusanya asilimia 75 ya makadirio yake na kwa mwaka 2016/2017 makusanyo yalikuwa asilimia 72 ya makadirio yake. Lakini pia, tumeona punguzo la asilimia katika changio kutoka kwenye sekta ya uziduaji kwenda kwenye bajeti ya taifa mwaka wa fedha 2017/1871

Waziri Mkuu wakati akiwasilisha bungeni hotuba kuhusu mapitio na mwelekeo wa kazi za Serikali kwa Mwaka 2017/2018 alisisitiza kuwa katika kipindi cha mwaka wa fedha 2017/2018 maduhuli ya Serikali yaliyokusanywa kutoka katika sekta ya madini yalifikia shilingi bilioni 180.4. Pia Serikali iliendesha zoezi la ukaguzi na kuwezesha kukamatwa kwa madini yaliyokuwa yakitoroshwa yenye jumla ya thamani ya Dola za Marekani takriban 898,523 na shilingi milioni 557 ambayo yalifanyiwa mnada hapahapa nchini.

Lakini pia, mwaka huo huo, Serikali kupitia wizara ya Nishati na Madini, ilikuwa na vipaumbele mbalimbali vilivyolenga kuhakikisha nchi inapata mapato sahihi yatokanayo na madini. Katika kuhakikisha hilo, Aprili 2018, Serikali ilizindua ukuta uliozunguka machimbo ya Tanzanite kwa lengo la kuimarisha udhibiti wa utoroshwaji wa madini na kuhakikisha Serikali haipotezi mapato kutokana na utoroshwaji wa madini aina ya Tanzanite kwa njia zisizo halali. Mbali na hilo pia kulifanyika mnada mkubwa wa Tanzanite yenye uzito wa gramu 47,201 iliyouzwa kwa shilingi 1,839,476,075 (Serikali ilipata mrabaha wa shilingi millioni 110.3 kama ada ya ukaguzi). Makusanyo mengine mbali na bajeti iliyopangwa na Serikali kwa mwaka wa fedha 2017/18 yalitokana na mazungumzo yaliyofanywa kwa niamba ya umma kati ya serikali na kampuni ya Acacia, iliyotoa kiasi cha dola za Kimarekani milioni 330 kwa lengo la kukomesha mgogoro ambao ungepinga shughuli zake nchini.

Aidha, Mwenyekiti Mtendaji wa Barrick Gold John Thornton, alisema kampuni hiyo ya madini itatoa kwa Tanzania hisa za asilimia 16 katika migodi yake mitatu (3) na asilimia 50 katika makusanyo ya mapato katika migodi hiyo.

Tegemeo letu ni kuona ongezeko la bajeti kwa mwaka wa fedha 2018/19. Lakini pia kupata ufafanuzi kwa namna gani makusanyo yaliyofanyika nje ya bajeti iliyopitishwa mwaka 2017/18 yametumika katika miradi ya maendeleo nchini.

TEITI ni taasisi muhimu katika usimamizi wa madini na tunaamini haijatengewa rasilimali fedha za kutosha tangia kuundwa kwake ili kufanya shughuli zake kwa ufanisi. Ukiachia shughuli muhimu inayofanywa kila mwaka kutoa ripoti ya malipo kutoka kampuni za madini, mafuta na gesi asilia, bado kazi kubwa ya kuhamasisha na kujenga uwezo wa wananchi kufuatilia mapato yatokanayo na rasilimali hizi inahitajika. Halikadhalika kwa mwaka wa fedha 2018/19, wadau wa sekta nzima ya uziduaji wanatarajia rejista ya wamiliki wa kampuni za madini, mafuta na gesi asilia ambayo imekuwa ikisubiriwa kwa shauku kubwa itaanzishwa na kuwekwa wazi kwenye tovuti ya wizara ili kusaidia mapambano dhidi ya ukwepaji kodi na rushwa.

Licha ya kwamba Sera ya Madini ya 2009 inagusia umuhimu wa ushirikishwaji wa wanawake kwenye shughuli za uziduaji na kujengewa uwezo, bajeti za miaka iliyopita za Wizara hazijawahi kuainisha fedha zinazotengwa kwa ajili ya utekelezaji huu. Inakadiriwa kuwa watanzania milioni moja wamejiajiri au kuajiriwa kwenye sekta ndogo ya wachimbaji wadogo na takribani asilimia 25 ni wanawake. Wanawake walio katika machimbo ya chumvi ni (38%), uziduaji wa madini ya ujenzi (32%) pamoja na dhahabu na almasi (37%) ila ni asilimia 10 tu ya wanawake wana leseni za uchimbaji madini. Sekta hii ndogo pia inakadiriwa kuleta ajira kwa watanzania milioni 7 ambayo ina idadi kubwa ya wanawake.

CHANGAMOTO:

1. Udangayifu kupitia gharama za vifaa / huduma –Mispricing: Njia kubwa inayotumiwa na makampuni ya uziduaji hapa nchini kukwepa kodi ni kupitia mbinu ya udanganyaji wa gharama za vifaa au huduma (mispricing) makampuni ya uziduaji hutumia mbinu hii kwa kuonesha gharama isiyohalali ya vifaa vinavyoagizwa kutoka nje hasa kutoka kwenye makampuni tanzu na hivyo kukwepa kodi na Serikali hukosa kupata mapato stahiki.

2. Bado kunachangamoto kwa serikali kuudhibitishia umma endapo viwango vya mapato yanayotolewa na makampuni ya uchimbaji nchini Tanzania ni sahihi. Ugumu huu wa usahihi wa malipo unatokana na usiri wa ajabu na usio wa lazima katika uingiaji wa mikataba baina ya makampuni na wakala za serikali. Pamoja na uwepo wa sheria zinazotoa miongozo ya kodi zinazotakiwa kulipwa na makampuni bado kuna haja ya kuweka wazi mwenendo mzima wa uingiwaji wa mikataba hii na ni nini hasa kipo kwenye mkataba ili kuweza kufanya ufuatiliaji wa karibu na kupata mapato yaliyosahihi na kwa taifa.

3. Jamii zinazozunguka maeneo ya migodi hazinufaiki inavyostahili na shughuli zinazoendeshwa na wawekezaji katika maeneo hayo.

MAPENDEKEZO YA VIPAUMBELE MWAKA 2018/19

1. Kutengwe rasilimali fedha za kutosha kuhakikisha Tanzania inaelekea kwenye uwepo wa mpango thabiti na huru wa Uwazi na Uwajibikaji katika usimamizi wa rasilimali za nchi (TEITA), ambao unashirikisha wadau mbalimbali, pia kutambuliwa vizuri ndani ya serikali kuwa Asasi za Kiraia zina mchango mkubwa katika kukuza uelewa wa umma kuhusu mapato ya serikali yatokanayo na sekta ya madini pamoja na uhalisia wa kufikiwa kwa matarajio.

2. Utekelezaji wa masuala mtambuka kama ya jinsia. Wizara ya Madini kupitia STAMICO itenge fedha za kujua idadi ya wanawake wanaojihusisha moja kwa moja na shughuli za madini nchini ili kuwa na taarifa sahihi zitakazosaidia kupambana na masuala ya unyanyasaji wa kijinsia kutoka kwa wafanyabiashara, wamiliki wa migodi na wafanyakazi wengi.

3. Serikali itoe ufafanuzi kwa namna gani makusanyo yaliyofanyika nje ya bajeti iliyopitishwa mwaka 2017/18 yametumika katika miradi ya maendeleo nchini.

4. Serikali itafute mbinu za mbadala ya kuvutia makampuni ya uchimbaji Madini nchini badala ya kutoa motisha za kodi na misamaha ya kodi. Serikali ipitie sheria na kupunguza motisha na misamaha ya kodi kwa makampuni yanayojishughulisha na uchimbaji wa madini. Serikali inaweze kutumia mikakati mingine kuvutia wawekezaji katika sekta ya madini kama vile usalama, utulivu wa kisiasa, kuimarisha miundo mbinu na kuondoa urasimu katika ngazi zote za utekelezaji.

5. Uwazi na uwajibikaji wa Serikali katika sekta ya uziduaji utawezesha wananchi kushiriki kikamilifu katika mchakato wa kufanya maamuzi kikamilifu juu ya mapato yanayotokana na sekta hii. Hii inaweza kufanikiwa tu pale ambapo mipango ya uwekezaji na biashara ya Serikali itafanyika kwa uwazi ili wadau waweze kuichambua sekta ipasavyo. Kwa hiyo Serikali kupitia Bunge iweke mikakati ya kuweka michakato ya mikataba wazi.

6. Ili Serikali iweza kufikisha malengo inayojipangia katika ukusanyaji wa mapato katika sekta ya madini nchini inatakiwa kuimarisha misingi yakukusanya mapato:

- Kuwepo na mpango wa udhibiti wenye tija katika utoaji wa lesini za utafutaji na uchimbaji wa madini kwa divisheni zote.
- Kuwepo mfumo utakaowezesha upatikanaji wa taarifa sahihi za bei elekezi za madini nchini, Ili kupunguza wimbi la soko haramu
- Kutengenezwe kanuni mahususi kwa ajili ya kusimamia minada ya madini nchini
- Kutenga bajeti kwa ajili ya kuimarisha kazi ya Mpango wa Taifa katika kutekeleza Uwazi na Uwajibikaji (TEITI)
- Serikali ifuatilie na kutoa ufafanuzi wa uhakika kuhusu kiasi cha bilioni 33 kati ya pesa iliyolipwa na makampuni na kiasi kilichopokewa na serikali kama inavyooneshwa kwenye ripoti ya TEITI.

- Kuhimarisha mfumo wa uhakiki wa kiasi cha madini yaliyovunwa, kusafirishwa na kuuzwa nje ili kubaini uhakika wa tarifa za mapato na kodi iliyolipwa na makampuni
- Kuimarisha ufuatiliaji na usimazi wa ufungaji wa migodi na kurejesha maeneo ya migodi iliyofungwa kwenye hali ya mazingira safi na salama
- Serikali isimamie na kuhakikisha manufa ya wananchi kwenye maeneo yanayozunguka kwenye migodi.
- Serikali iainishe baadhi ya huduma muhimu za kijamii ambazo zitapewa kipaumbele kwenye mpango wa CSR wa kila kampuni kama vile barabara, maji, umeme, huduma ya afya na elimu badala ya kuziachia kampuni kufanya yale wanayotaka kwa wakati wanaoutaka na kwenda tofauti na malengo ya Serikali.
- Serikali ifanye uhakiki wa madeni ya mikopo yanayotangazwa na wawekezaji kisha kuingizwa kwenye gharama za mtaji, bila kudhibiti jambo hili hakuna siku Tanzania itapata gawiwo la faida katika miradi inayostahili gawiwo.

Tamko hili limeandaliwa na HakiRasilimali-PWYP. Kwa habari zaidi tafadhali wasiliana nasi: info@hakirasilimali.or.tz /+255 745 655 655

Are you a Champion of Open Contracting?

"Achieving Open Government Requires a Country to Put in Place Systems and Mechanisms which need to be reflected in the National Policies, Laws and Institutions"

-Jakaya Kikwete

Background

Contracts entered between resource rich governments and the multinationals are essential as they set out obligations, rewards, rights and protections in the oil, gas and mining investments. For decades now, contract disclosure for the exploration and exploitation of natural resources (esp. mining, oil and natural gas) in Tanzania has remained to be CRITICAL and an unreciprocated Mystery. - Inaccessibility to such contracts, limits citizens' access to information, shrinks theirsense of ownership of their natural resources and decreases their ability and motivation to scrutinize and engage effectively in debates or decisions on how the country can better manage its natural resources. This is for the country to achieve its desired revenues but also to improve the livelihoods of its people sustainably. Open Contracting is about making the entire contracting process open and transparent, fair and efficient: from the planning phase, over tendering, averaging and contracting, to implementation[1].

Open Contracting is about making making entire process of contracting open and transparent, fair and efficient from the planing phase, over tendering, averaging and contracting to implementation.

The main institution responsible for public procurement standards and practices which monitors compliance of procuring entities, is the Public Procurement Regulatory Authority (PPRA). The Government Procurement Services Agency (GPSA) centralizes the procurement of stock items for re-sale to the government and nongovernmental institutions, and for procuring common goods and services for other public institutions using framework contracts. The GPSA publishes procurement data on its website in an open data format.

The government has a mandate to be transparent and to enhance public participation in public procurement & contracting services; however, there is no clear program in place to engage citizens and the private sector in the whole issue of open contracting.

Moreover, , the legal framework that guides PPRA is inadequate. An amendment to the Public Procurement Act of2016, seeks to address gaps in legislation, including disclosure. The amended act requires a witness at the signing of contracts, and for entities to report procurements electronically (where possible) or manually. The government also passed other disclosure related legislations such as the Constitution of Tanzania which provides for freedom of information; in 2016, the Access to Information Act was enacted providing the public the right to government-held information. This by itself is not enough as there are clauses in some of these laws that hinder access to some of the information therefore, the Public Procurement Act of 2016 for instance, should focus beyond having a witness but address a need for total disclosure as envisioned by the open contracting approach[2].

Open Contracting in Tanzania

Why does it matter in the Tanzania oil, gas and mining sectors?

Being a compliant country to EITI standards since 2012, Tanzania's implementation of the EITI Standard and the TEITA Act, 2015 have so far been important tools enabling stakeholders, especially policy makers to oversee governments' management of extractive contracts. However, as a matter of fact, the country has failed to live up to its disclosure obligations, and commitments regarding extractives sector contracts leaving it a MYSTERY for stakeholders to further advocacy and debates which cannot be discussed without disclosure[3].

Open and accountable government in the extractive sector empowers "MWANANCHI" to fully participate in the decision-making processes positively impacting on revenues generated that have an impact in their livelihood. This can succeed ONLY when the investment plans and government businesses are carried out openly for the people and relevant stakeholders to scrutinize.

[1]https://www.open-contracting.org/wp-content/uploads/2016/02/OCP2016_EITI_brief.pdf

The publics' interest is to understand how their natural resources are used and shared. To achieve this, "Wananchi" must first and foremost be informed about public contracting on agreements between private sector and governments; modalities of engagement, revenues, environmental impact assessments, revenue sharing, and community participation etc. For this reason, the disclosure of records generated from the sector as part of the procurement process is an important component of Open Government.

Where policy makers can lead the push to improve the policy and regulatory practice framework covering open contracting in the country:

1. The policy makers can use the space provided to enhance disclosure through open contracting for reasons such as:

- Fair deal for all: so that the negotiations that the government enters with the multinationals can be on a more level playing field, and that both the government and the investing companies can benefit from their investments.
- Building relationships and trust: to ensure that no information is lost across the entire sector in order to maximize benefits accrued from the sector. Access to these contracts, raises awareness among key stakeholders (CSO and public) which sets the grounds of trust between society, government and companies. This will enable these stakeholders to carryout analysis which provides REALITY checks thus avoiding the state of confusion and misunderstanding around agreements.
- Effective monitoring of rules: policy makers' engagement in the monitoring process of the extractive sector legal framework helps to ensure that the country's expectations especially on the share held by the government is kept in reality. OC makes it easier to know how the rules are implemented and to hold individuals responsible for their actions. This also enables communities to benefit from corporate social responsibility (CSR). .

How to lead the push?

An effective policy makers are critical to shape open contracting and make it a success. A policy maker taking an active role in open contracting can position oneself as a leading voice on good governance and transparency. Here are some examples of how one can learn about, and get involved in open contracting in the extractive industry:

- Champion for a specific law on open contracting;
- Push for the amendment of the TEITA Act and its regulations to include open contracting;
- Champion the establishment of an open contracting caucus;
- Work within the key committees to monitor and oversee open contracting in the extractives sector;
- Interact with the media to raise public awareness on open contracting and highlight areas where the process can be improved;
- Request information on open contracting from civil society groups that are active on extractive industry monitoring;
- Present your involvement in open contracting to your constituency to raise constituents' awareness and demonstrate how it can benefit them; and
- Increase political pressure for the implementation of audit recommendations from EITI reports.

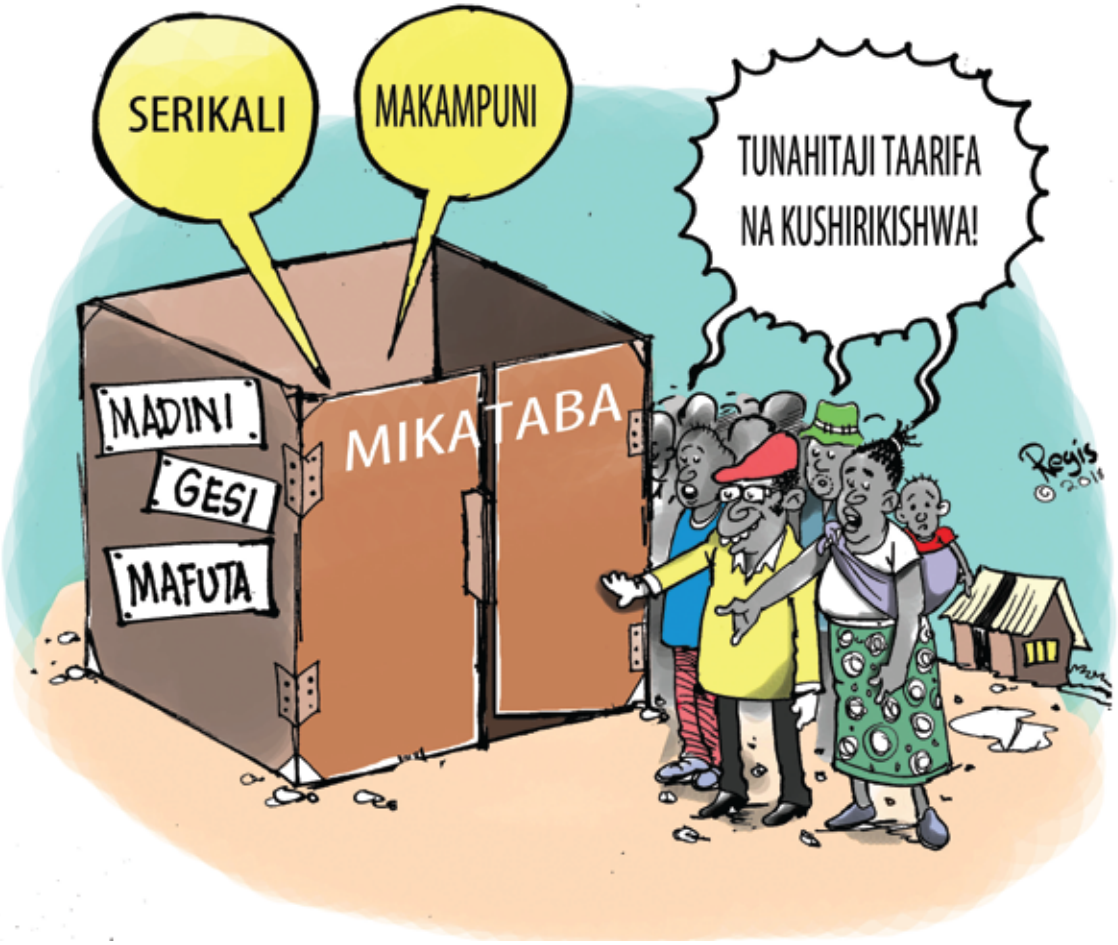
Contact:
Policy Forum, P. O. Box 38486,
Dar-es-salaam, Tanzania.
Tel: +255 22 2780200
Mobile:+255 782317434
Email: info@policyforum.or.tz
Website: www.policyforum.or.tz

HakiRasilimali, P. O.BOX 38486,
Dar-es-salaam, Tanzania.
Phone: +255 (0) 745 655 655
Email: info@hakirasilimali.or.tz
Website: www.hakirasilimali.or.tz

THE BIG RESULTS FOR OPEN CONTRACTING

[2]Open Contracting Data Programme of Hivos: https://hivos.org/focal-area/open-contracting

[3]The EITI Standard 2016: https://eiti.org/document/standard


SERIKALI
MAKAMPUNI
TUNAHITAJI TAARIFA
NA KUSHIRIKISHWA!
MADINI
GESI
MAFUTA
MIKATABA

Contact us Via

+255 (0) 745 655 655

info@hakirasilimali.or.tz

www.hakirasilimali.or.tz

@HakiRasilimalitz

@HakiRasilimali

@HakiRasilimali