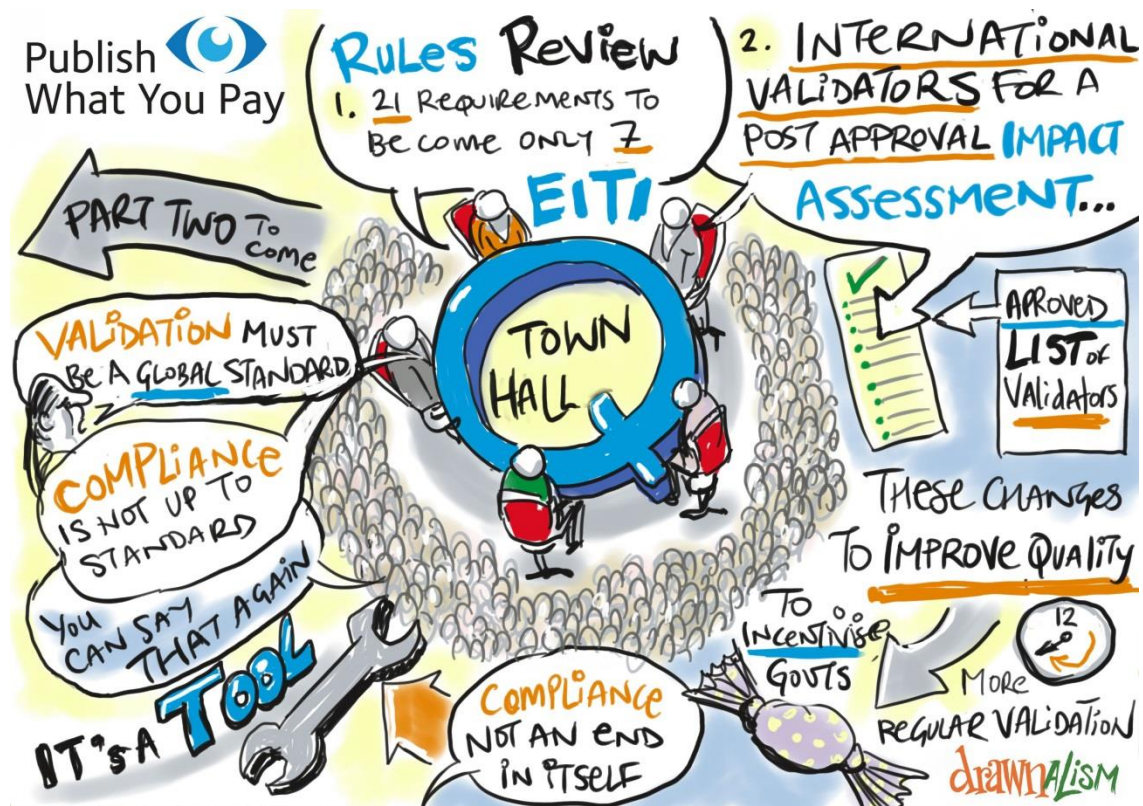


Strengthening civil society participation in EITI - The case of DRC



Introduction

Civil society has a crucial role to play in supporting the implementation of the Extractive Industries Transparency Initiative (EITI) and in ensuring that the initiative delivers. In improving transparency and good governance, EITI can help citizens in resource-rich countries better benefit from their natural resources, but civil society is the crucial link that can turn transparency into accountability.

Yet civil society faces many challenges in its bid to engage freely, fully and effectively in the EITI process. In order to be influential, civil society must be united, well-informed and credible – not an easy feat when you consider that their space at the table is recent, their workload full and capacity limited. What can civil society do in order to deliver its full potential?

In this brief we explore how, through quarterly evaluation sessions on the quality of EITI implementation, civil society in DRC has strengthened its voice, united its views and increased its credibility.

Other PWYP coalitions can draw on these lessons, in order to strengthen their own participation in the national implementation processes. This brief will also be of interest to those interested on issues of extractive transparency, good governance and multi-stakeholder initiatives.

Publish What You Pay

Publish What You Pay (PWYP) is a global network of civil society organisations 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.

Our global network is made up of more than 800 member organisations across the world, including human rights, development, environmental and faith-based organisations.

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The Evaluations

It was in semi-darkness, broken only by the light from the overhead projector, that representatives from the PWYP-DRC coalition put the finishing touches to their final declaration. The porter at the Carter Centre, hosting the PWYP meeting in Kinshasa, was keen for them to finish. But the delegates insisted. In spite of their fatigue, new ideas were coming together while opinions on wording and what to include differed in what was to be the high point of two days of intense debate between coalition members. Consensus has to be earned in the Democratic Republic of Congo!



It was therefore with pride and satisfaction that lawyer Jean-Claude Katende, the group's benevolent and patient moderator, concluded this eleventh evaluation on the EITI process by thanking the participants for their active contributions and recalling the aims of an exercise that the DRC coalition has worked on assiduously every quarter since 2011.

“The quality of a country’s EITI process depends on the commitment of civil society and its involvement in the process. And involvement does not just extend to the

delegates on the Multi-Stakeholder Group. It is important for civil society to contribute to the MSG’s discussions and give the delegates material to work with. The EITI process should not simply be left to the delegates: it doesn’t belong to them. It belongs to all of us!” explains Jean Pierre Okenda, who has come specially from Katanga province, some 2,000 km from the capital, to take part in the coalition’s evaluation workshops.

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Jean-Pierre Okenda

Once the DRC was accepted as EITI candidate in 2007, civil society decided that it would need to evaluate the implementation of the EITI process at regular intervals. Initially, evaluations were carried out informally, by a small committee, often without significant financial resources. However, from 2010 onwards the practice was gradually institutionalised until it became a separate activity, funded by technical partners such as Cordaid or GiZ (Gesellschaft für Internationale Zusammenarbeit). Regular financial support enabled the coalition to approach the evaluation exercise on a truly national scale, as from 2011 onward delegates from each province (Bas-Congo, Katanga, the two Kivus, Equateur, Maniema, the two Kasais and Haut-Congo) were

systematically invited to take part in the sessions organised in the capital, Kinshasa.

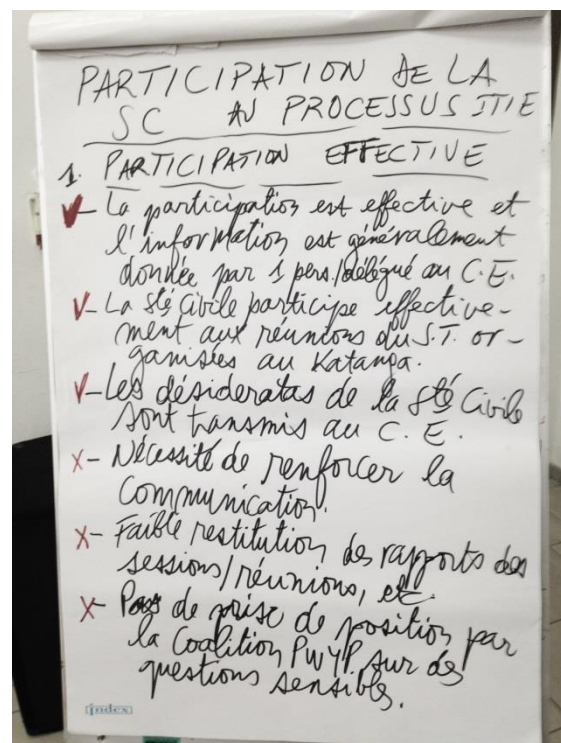
The EITI & DRC

The Democratic Republic of Congo became an official EITI candidate in 2007, publishing its first report in 2010. Implementation revealed that some \$26 million of royalty payments were unaccounted for and has helped ensure tax payments reach the accounts at the Central Bank. However, the process has not been an easy one. The DRC has yet to reach compliant status and is currently suspended from the initiative.

Spread over three days, the workshops create a space for consultation, discussion and (civil) arguments between the five permanent civil society representatives appointed to the Committee and organisations working on issues related to the extractive industries.

The Weak link becomes strong

“Imagine that civil society is part of the multi-stakeholder group but doesn’t contribute to it. Companies submit more or less reliable declarations. The financial authorities try to submit more or less reliable declarations. What does civil society have to offer the process if it cannot recommend improvements and if it cannot identify deviations in a timely way? If this is the case, it will simply be a stakeholder that follows the pack, which is not proactive, which is counter-productive and which is even seen as dangerous for business,” explains lawyer Albert Kabuya – member of the National Centre for Development Support and Popular Participation and the latest recruit to the civil society contingent represented on the EITI MSG – on the role played by civil society in the EITI’s tripartite configuration.



Yet civil society's essential contribution relies on its ability to understand and assimilate the often highly technical and sophisticated requirements of the EITI process. This aspect has long been a source of tension within the MSG, as civil society representatives frequently lacked the necessary expertise. As Albert Kabuya explains: "In the past, people talked for the sake of it. They would support a position without any understanding of it." The numerous questions asked by civil society were a source of frustration to other stakeholders and tended to prolong discussions. This is why capacity-building is a key part of the evaluation sessions. The presence of the firm commissioned to collect data for the EITI reports and technicians sent by the National Technical Secretariat has also provided valuable insights and helped save time during the MSG's subsequent discussions, thus significantly improving its operation.

EITI Multi-stakeholder groups

At the national level, the EITI multi-stakeholder group, made up of government, company and civil society representatives, provides oversight of the implementation of the initiative. The multi-stakeholder group is required to maintain a current workplan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board.

The aim of the time given over to technical training was also intended to even out the inequalities in knowledge and understanding within the coalition. For example when

PWYP-DRC's central coordination issues invitations to take part in the evaluation exercise, these are addressed to the organisations, that are then free to send the person they believe is in the best position to pass on the information they learn during the exercise. This has the effect of bringing in novices.

Although this broadens the circle of people who are well versed in the subtleties of the EITI and is entirely desirable as a development, it also creates a challenge for the organisers in terms of harmonising the participants' level of knowledge and ensuring consistency. The organisers therefore have to find a delicate balance between, on the one hand, debates that are too sophisticated, and on the other, a discussion of the process that is too superficial. In addition to introductory sessions on the EITI process, there are generally capacity-building workshops running alongside the session. The most recent one for instance, was preceded by a training session on the new EITI standard, led by the Revenue Watch Institute. The evaluations therefore play an essential role in ensuring ownership of the EITI process by Congolese civil society, and they do this in a broad sense, as they attract no fewer than 40 or so participants. Above all, participants are under an obligation to pass on what they learn in Kinshasa to their respective provinces by becoming information resources within their local communities.

Developing a solid understanding of the EITI requirements lies at the heart of PWYP DRC's approach when it organises these evaluations. Their main objective is, of course, to gauge the extent to which EITI

implementation in the DRC complies with the rules defined at an international level. “The priority is to ask ourselves: is our process credible? Are we on the right track, as defined in the EITI standard? And if not, what options can we suggest to get back on course?” comments Albert Kabuya. He continues, “At a technical level, our concern is based on our determination to see the extractive sector benefit the population as a whole, not just those individuals who are in power. Our organisation embraced the EITI process in 2005 because we think it’s a way of getting clarity on how the revenues received by the state are managed and because it helps us to lobby on the issue.”

The question of understanding the requirements of the EITI standard is not simply about pride in achieving compliance but a concern about seeing the initiative contribute to people’s well-being. The technical discussions should not be a sterile debate but should help the country take full advantage of its involvement in the EITI.

It is nevertheless this same ambition that first aroused the government’s mistrust of these quarterly meetings of civil society. “The government sees us as a threat. They think we are used by international NGOs and that we are acting as some kind of police force. But increasingly, they are beginning to understand that we’re important for the country and for businesses. The impact of our evaluations is now forcing them to take a fresh look at how they treat us,” according to Pastor Jacques Bakulu, from the organisation CEPECO (Centre for Promoting and Educating Grassroots Communities), who represents Bas Congo province on the Steering Committee.

Albert Kabuya shares Pastor Bakulu’s views: “The government is afraid of our recommendations. Why? Because it thinks the international community listens more to what we say than to what it says. It feels under pressure – and civil society uses the EITI to put it under pressure.” When the EITI International Board suspended the DRC in May 2013 for its failure to comply with the requirements set out in the EITI rules, the government vented its anger on civil society and accused it of having incited the Board to take the decision to suspend. In the declarations it publishes at the end of each evaluation workshop, the Congolese coalition had indeed drawn the government’s attention to the shortcomings in the process that risked leading to a suspension. Civil society’s ability to predict the International Board’s decision accurately as a result of its detailed analysis, conferred unprecedented value on the views of CSOs.

The event marked a turning point in how civil society’s opinions are taken into account in the Steering Committee’s discussions. Civil society has long been tolerated but has now become not only a recognised and legitimate contributor to the debates but an essential driving force. CSOs and their regular, inclusive, critical evaluation sessions can therefore take credit for the progress the DRC has achieved in implementing the EITI process. Recognition of its leading role has earned civil society increasingly enthusiastic support from other actors, in particularly members of the EITI-DRC’s Technical Secretariat, who are not only keen to attend the evaluations but also to offer them financial support. The cost of holding

regular workshops with representatives from the provinces is certainly significant, at \$15,000 to \$20,000 per event. Finding the necessary funds is therefore a sizeable challenge for members of the PWYP coalition.

The fact that the Technical Secretariat or GiZ now allocates a specific budget to the workshops, however, points to how effective these are seen to be.

Legitimate Representation

Another reason why the voices of civil society representatives have been strengthened is that the evaluations have made a significant contribution to strengthening internal cohesion within civil society. “The evaluations have helped decrease the tensions between civil society organisations. There were CSOs who didn’t know about what the delegates were doing,” reports Jean Pierre Okenda, a member of the Platform of Civil-Society Organisations in the Mining Sector (POM), which operates in Katanga. Until the evaluation sessions were held on a regular basis, CSOs that did not sit on the Steering Committee were only informed about the EITI process when EITI reports were published. Criticising the reports was therefore the only way of engaging with the process. However for delegates on the board this meant they ran the risk of being discredited by other stakeholders, since it was difficult for them to proclaim that solidarity within civil society existed beyond their individual organisations. Now, through the evaluation sessions, CSOs have the opportunity to influence the process ahead of time and monitor the quality of the report, rather than having it presented to them as a finished

product. They therefore feel more supportive of their delegates, who can in turn speak from a position of greater strength.

“The delegates also know that they don’t just go to say whatever they think. [The evaluation sessions] become a forum for discussion – a testing ground to some extent. Our delegates are there and that creates a real opportunity to discuss what are sometimes extremely crucial questions for the process. It also helps us achieve a common understanding. Civil society’s effectiveness comes mainly from that, from the fact that we are involved in looking at the process together,” continues Jean Pierre Okenda.

“The delegates become the people who know everything and understand it all because they are in contact with the organisations working directly at a grassroots level”

From Pastor Bakulu’s point of view, the sense of collective power created by the workshops has helped empower the delegates to criticise and expose the imperfections in the process in the presence of the Minister, who chairs the Steering Committee meetings.

For the delegates who sit on the Committee, the exercise in self-criticism was not obvious in the beginning. It can still sometimes be difficult for them to accept criticism from their colleagues, which emphasises the need for a facilitator whose

authority is recognised by all the participants and who can manage the tensions that inevitably arise. Albert Kabuya, however, believes that it is useful for delegates to “look at the process from a distance and step back to examine it objectively instead of simply being content to be part of the multi-stakeholder group; they should have the opportunity to look honestly at how the process works, without interference from the other stakeholders. It’s an exercise that makes their intervention more credible.”



The sessions have therefore introduced an effective mechanism to ensure accountability between the delegates and the organisations they represent. For the delegates, the advantage has been to increase their understanding of the problems encountered by civil society in various regions in the DRC.

“The delegates become the people who know everything and understand it all because they are in contact with the organisations working directly at a grassroots level,” explains Jean Pierre Okenda. The various organisations present bring a wealth of expertise and experience that the delegates can then use to support their arguments in the Committee. Also,

direct interaction between the national delegates and organisations from the provinces has helped the latter to be more assertive with the Committee about what they want. For example, the delegates supported the request from CSOs in Katanga for a more decentralised EITI process by creating a local branch of the multi-stakeholder group.

Being able to ask the delegates to report back and play an active role in formulating joint requests that they will then take to the Committee has encouraged more CSOs to become involved in the EITI process.

Katanga province, where a significant proportion of the DRC’s mining activities take place, is the best example. The CSOs that are active in mining-related questions in Katanga (primarily through the POM network) have been regularly involved in the evaluation sessions since 2012 and have developed a solid understanding of the EITI process. The analyses produced by POM now feed into the evaluation session debates and create a virtuous circle at a regional level, as other provinces are keen to be outdone so easily.

“Here, we admire the progress our civil society colleagues in Katanga have made in terms of the quality of their EITI report analysis but we also encourage other colleagues to follow suit and try to replicate what is being done in Katanga in other provinces,” comments Albert Kabuya.

To conclude, there have been numerous benefits from these evaluation sessions. By gradually overcoming a series of financial and human obstacles, the workshops have

firstly helped improve civil society ownership of the EITI process, at a broader level than just the delegates represented on the Steering Committee. Secondly, by increasing the number of organisations involved in the process, delegates have been able to make a substantial contribution to the Committee's discussions and have seen their views properly taken into account by other stakeholders. The EITI process in the DRC can therefore legitimately lay claim to free, comprehensive and effective participation by civil society!

Conclusion

The evaluation sessions organised by the PWYP-DRC coalition offer an example of good practice in terms of involving civil society in the EITI process. In our view, the main points are:

- **A more united civil society:** meeting regularly and having the chance to express a range of critiques helped to significantly reduce tensions between members of civil society. In offering a (sometimes heated) space for sharing ideas, the workshops have been essential in facilitating the reaching of a consensus on issues related to EITI implementation. Whilst previous divisions had brought some discredit on civil society as a constituency, the establishment of a common position has now helped civil have its voice heard clearly. Above all, civil society is less likely to be a victim of attempts to divide and destabilise it by other actors who are keen to blur its message.
- **The views of civil society representatives are legitimised and heard within the national Steering Committee:** the communiqués signed by all participants on behalf of their organisations at the end of the evaluation workshops give the delegates a degree of authority that other stakeholders cannot ignore. Their views are seen as not only more authoritative but also more legitimate, insofar as the workshops are also designed to ensure representatives are accountable for their performance on the Committee. In addition, the workshops allow delegates to keep up-to-date with what is happening in the various provinces and learn from the range of expertise available. As a result, delegates are able to draw on multiple arguments and examples during Committee debates, ensuring their contribution has more impact.
- **More productive discussions within the Steering Committee:** through the evaluation workshops, delegates have increased their understanding of the subjects discussed in Committee. Expert contributions to the workshops help delegates improve their understanding of particular issues and save them time during Committee discussions. As a result, committee meetings are more efficient because delegates are able to get straight to the heart of the matter and concentrate on defending civil society's positions.
- **Broad ownership of the process at a national and regional level:** the systematic presence of provincial delegates at the workshops has ensured increased dissemination of the EITI process at a regional level. Implementing the initiative in the DRC is not restricted to the capital and a handful of insiders. It can truly draw on a large network of civil-society representatives who have a solid understanding of the process and an interest in progressing it. Broader ownership of this kind is an essential condition for guaranteeing the sustainability and above all the relevance of the EITI process not only at a national but also a local level.