

# MAXIMISING INFLUENCE IN THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE FOR IMPROVED EXTRACTIVES GOVERNANCE

A GUIDE FOR CIVIL SOCIETY



PUBLISH WHAT  
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# TABLE OF CONTENTS

## Chapter 1

Four steps to stronger Civil Society participation in the EITI	6
Step 1: selecting the best civil society representatives	7
Step 2: accountability of civil society representatives	12
Step 3: Maximising influence and negotiating power	17
Step 4: The civil society protocol	22

## Chapter 2

Identifying, collecting and publishing the right data	32
What can data do for civil society?	35
Where can civil society access the data?	38
How can civil society influence data collection?	43
How can civil society influence data analysis?	50

## Chapter 3

Using data to drive debate and change	58
How can data Be used to engage local communities?	65

# MAXIMISING INFLUENCE IN THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE FOR IMPROVED EXTRACTIVES GOVERNANCE

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The Extractive Industries Transparency Initiative (EITI) stands or falls on the strength of its civil society component. Only with well-coordinated, inclusive and influential civil society participation will EITI data inform public debate and lead to improved governance in the extractive sector. Civil society input underpins success throughout the EITI process, from consulting communities affected by extraction over EITI reports to disseminating findings, making policy recommendations and driving reform.

Established in 2002 as a disclosure scheme to ensure transparency and accountability in a country's natural resource governance, the EITI is a multi-stakeholder initiative. Government, extractive industry and civil society representatives have equal say in its decision-making bodies, at international Board level and in national multi-stakeholder groups.

The EITI broke new ground by giving civil society an unprecedented role in extractive sector governance. PWYP member organisations have been at the heart of the process, with regular representation on the international Board since 2006. National PWYP coalitions in over 30 countries have often spearheaded civil society engagement in EITI processes. This wide-ranging experience enables PWYP to offer unique insight into maximising civil society's influence in the EITI.

This guide draws on that insight to provide civil society groups involved in the EITI with the necessary tools to play their role effectively. It outlines the context and challenges of civil society participation in the EITI, and offers recommendations and case studies to help civil society actors leverage the EITI Standard and platform to improve extractive sector governance.

The guide distils this insight into four chapters, which will be released online during the year following June 2018. The chapters reflect the natural cycle of EITI implementation in a country:

- **Introduction** - Challenges of the extractives sector – opportunities for civil society to advocate for reforms for better governance of the sector, including by informing the debate and using platforms effectively.
- **Chapter one** - "Optimising Civil Society engagement in the EITI". The EITI is a tool for informing public debate. In each country the process is underpinned by a national multi-stakeholder group (MSG). This chapter looks at how to establish credible and effective civil society representation on the, including selecting representatives and holding them to account, coordinating with wider civil society and engaging with government and business.
- **Chapter two** - explores how civil society can ensure that the process is meaningful to citizens, relevant for the country context, prioritises the key issues and meets the EITI requirements, including consideration of adapted and limited implementation where appropriate. It looks at opportunities to embed systematic disclosure of the extractives data in government and company systems.
- **Chapter three** - covers the successful dissemination and use of data about the extractives sector, including that from the EITI process, to fuel public debate about natural resource management.
- **Chapter four** - shows how civil society can assess the impact of EITI implementation in light of its wider objectives for the sector.

PWYP aims to provide regular updates to the guide. We welcome feedback, suggestions for improvement and stories of how the guide has been used. Please contact the PWYP Secretariat with comments or for more information on any of the topics covered.

Acknowledgements for each chapter

## Chapter 1:

### Four steps to stronger Civil Society participation in the EITI

# ACHIEVING INTEGRITY IN OIL, GAS AND MINING

LEVERAGING THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE FOR REFORM IN OIL, GAS AND MINING GOVERNANCE  
A GUIDE FOR CIVIL SOCIETY

## Chapter 1:

### Four steps to stronger Civil Society participation in the EITI

The Extractive Industries Transparency Initiative (EITI) stands or falls on the strength of its civil society component. Only with well-coordinated, inclusive and meaningful civil society participation will the information published in EITI reports inform public debate and lead to improved governance in the extractive sector. Civil society input underpins success throughout the EITI process, from consulting communities – especially those affected by extraction – over EITI reports to using findings to make policy recommendations and drive governance reform.

Although government, companies and civil society are prescribed equal roles in the EITI process, civil society faces specific challenges when it comes to engaging on an equal basis in discussions with the other two parties. To address these, Publish What You Pay (PWYP) has built on the breadth of experience gathered by its

members on the ground to provide civil society organisations (CSOs) with recommendations and good practices to help them maximise their presence at the negotiating table. The range of concrete steps, outlined below, centres on:

1. [Selecting the best civil society representatives](#)
2. [Ensuring these representatives are accountable to their constituencies](#)
3. [Maximising their influence](#)
4. [Harnessing the EITI's Civil Society Protocol to optimise civic participation](#)

Building credible and effective representation in this way enables civil society to have significant impact on discussions that shape EITI implementation, and ultimately to ensure that citizens benefit from their country's natural resources.

## STEP 1: SELECTING THE BEST CIVIL SOCIETY REPRESENTATIVES



### CONTEXT AND CHALLENGES

The multi-stakeholder group that will take key decisions about a country's EITI reporting is usually made up of three constituencies: government, business and civil society. Once the allocation of seats to each is settled, the government is responsible for inviting the other two constituencies to self-select their representatives. Each constituency is entirely free and autonomous in deciding its selection process. Any suggestion of coercion from the other constituencies defies the EITI Standard<sup>1</sup> and would be flagged during the country's Validation process, if not before. Inappropriate interference could include direct appointment of a representative, establishment of a quota system with predefined categories within each constituency, or offering personal or financial

advantages or threats<sup>2</sup>. A lack of understanding of civil society dynamics, or eagerness to submit an EITI application to satisfy a political agenda or meet administrative requirements, can lead other stakeholders to unnecessarily rush the civil society selection process. Unless civil society agrees that using a window of opportunity justifies short timeframes, CSOs are encouraged to resist such pressures and take the time they need to carry out a solid, open and transparent selection process.

The EITI Standard does not prescribe term limits for members of national multi-stakeholder groups. This gives rise to widely varying term limits, from annual rotation of representatives in some contexts to seemingly limitless tenure

<sup>1</sup> Requirement 1.4 a) ii. of the EITI Standard: "Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies."

<sup>2</sup> For more about the consequences of non-compliance with requirements related to civil society participation, see section 4 below, on the Civil Society Protocol.

in others. In the absence of clear guidelines, civil society in many EITI countries struggles to replace long-serving multi-stakeholder group representatives, which can reduce accountability and undermine its credibility in campaigning for an inclusive and democratic public debate about the management of natural resources.

Decisions on who should represent civil society in the EITI multi-stakeholder group are often not straightforward. Although it is clear that civil society is meant to represent citizens' views, demands and interests, which may be different from those of the private sector and government, there is no universally accepted definition of civil society. A country's civil society constituency will need to agree collectively what is most suitable for its national context. On the international EITI Board, for instance, investors sit among the company constituency, while in the United States, civil society argued in favour of including an ethical investor among its representatives in the multi-stakeholder group.

The success of civil society participation in multi-stakeholder group negotiations starts with the selection process for its representatives. Legitimacy is essential for civil society representatives to be considered authoritative. They must be understood as giving a voice to those directly affected by extractive activities, while also bringing sufficient relevant technical expertise to the table.

## RECOMMENDATIONS

Drawing on the research conducted by the Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity) and the insights gained by its members over the years, PWYP recommends several key steps to help civil society select the best range of representatives for multi-stakeholder negotiations<sup>3</sup>. In the EITI context, these include:

- **Commit time and resources to wide consultation**

Consultations about the selection process should be led by an organisation or a group widely trusted by independent CSOs, or otherwise by an independent external party. In the US and Mexico, for instance, the government appointed the Consensus Building Institute to help civil society organise consultations on its selection process. The leading organisation, or group of organisations, should ensure adequate financial means, time and resources for a comprehensive consultation process – including sub-nationally – so the selection mechanism can be determined through extensive consultations of relevant stakeholders. In places such as the Philippines, Colombia and Mexico, local CSOs conducted targeted fundraising activities that allowed them to undertake outreach activities without government support. Bilateral donors are often open to funding this type of activity through their local embassies.

Initial consultation methods might include online platforms such as webinars, surveys and social media, provided that relevant stakeholders have access and feel comfortable engaging via these channels. Ideally, however, the consultation should include a series of face-to-face meetings to allow deeper trust to be built among members of the constituency and equip future representatives with greater legitimacy.

Involving a wide range of actors in this way enables the establishment of a cohesive group of interested parties from the beginning. As this can also require significant time, it is important for the lead organisation to agree realistic timelines with the government. It should also explain that ample consultations are essential to establish a transparent selection process that prevents concerns about bias or exclusion. This confirms representatives' right to speak on behalf of a wider group and helps them negotiate effectively with government and business, enabling a productive dialogue in the long term.



### COLOMBIA: PARTICIPATION BASED ON CONSULTATION

In Colombia, a small set of actors from leading CSOs and universities organised a series of open-invitation workshops, both in the capital, Bogota, and in the regions, over the course of two months in 2013, with funding from USAID. This enabled small community-based organisations to participate. On average, each workshop gathered 50 people to discuss the purpose of the EITI. At the end of each session, participants could sign up if they wanted to continue working on the EITI. Signatory organisations came together for a final workshop in Bogota to agree a selection process and a framework that would allow civil society to work together as a cohesive constituency. The Mesa de la Sociedad Civil was then created as a platform through which CSOs from across Colombia can engage in the EITI.

- **Choose an appropriate selection mechanism**

For credibility and accountability, civil society representatives on the multi-stakeholder group should be selected through a clearly defined, transparent and inclusive process. Selection mechanisms can include election, nomination by a selection panel or a combination of both. Civil society representation needs to offer the right balance between technical expertise and giving a voice to those affected by extraction. A selection panel can assess candidates' individual strengths and weaknesses to create a group of representatives with a balanced skillset, but safeguards must be established to prevent

accusations of bias. Selection panels should be bound by clear and objective criteria and strict conflict-of-interest policies that prevent certain candidates being unduly favoured. Elections can create a positive, inclusive dynamic, especially when it comes to holding civil society representatives regularly to account. However, they can also be resource intensive and risk becoming popularity contests that bypass the most competent and committed candidates. External election observers can help demonstrate openness, as can publicising the results – including lessons learnt<sup>4</sup>. Whatever method CSOs favour, mechanisms must be put in place to guarantee the integrity of the process.

All consulted parties are strongly encouraged to agree a code of conduct or constituency guidelines outlining the selection process in writing (see the CSO guidelines here). This makes it easy to share the selection procedure widely, ensuring the process is as transparent as possible. It also facilitates subsequent reviews to adapt the process to changing contexts or integrate lessons learnt, and provides a benchmark for assessing possible complaints.



### IRAQ: INCLUSIVE, TRANSPARENT ELECTION OF REPRESENTATIVES

In 2014, CSOs in Iraq successfully organised a large-scale election for four multi-stakeholder group representatives. Preparations took almost a year, enabling candidates to be thoroughly

<sup>4</sup> At international Board level, civil society nomination is recorded and analysed in the Nomination Committee report after each selection round. Click here for the most recent report.

voted and more than 500 voters from 380 CSOs to participate, including many from outside the capital, Baghdad. After a day of open exchanges, all participants were invited to vote for their civil society representatives. Supervised by an independent judge, members of CSOs with no stake in the EITI and a representative from an international CSO, the election enabled inclusive, transparent selection of representatives to Iraq's EITI process.

<https://eiti.org/blog/iraq-civil-society-holds-historic-elections>

- **Define qualifying criteria for potential candidates**

CSOs should agree a clear set of qualifying criteria for candidates to represent civil society. This fosters transparency and rigour in the selection process, helping ensure that representatives are as qualified and competent as possible. Selection criteria should allow multi-stakeholder group members collectively to deliver the right balance between representativeness and technical expertise. Such balance will vary between national contexts, making it important for a country's CSOs to discuss what qualifications candidates require to perform well in the multi-stakeholder group. MSI Integrity concludes that eligibility criteria should be context-specific and address:

- Independence and accountability
- Availability and commitment
- Standing and legitimacy to speak on behalf of civil society
- Expertise and experience
- Gender, cultural or ethnic, and geographic diversity (quota systems could be necessary).

Criteria for candidates should also define who cannot represent civil society. PWYP recommends excluding publicly elected officials with a political affiliation, and individuals or members of any organisation that advocates on behalf of the extractive industry or the national government, or directly benefits from either. This includes local government officials, parliamentarians, business associations and consultants linked to extraction, even if in a non-profit capacity.



## THE PHILIPPINES: QUALIFICATION CRITERIA FOR CIVIL SOCIETY EITI CANDIDATES

- Sufficient authority and ability to speak with conviction on behalf of civil society
- Active engagement in the EITI and knowledge of EITI policies and rules
- Committed to the principles of the PWYP value chain
- Sufficient time and willingness to attend monthly multi-stakeholder meetings and participate in related activities
- Sufficient time and willingness to report back regularly to wider civil society audiences
- Demonstrable record of engagement with and advocacy for civil society interests
- Negotiating and public relations skills
- Member of or affiliation to credible organisations or alliances
- Sound experience and interest in working with a wide spectrum of stakeholders (private sector, donors, international financial institutions, governments, media, etc.)
- Ability to apply long-term strategic thinking and to balance organisational, local and national interests
- No affiliation, direct or indirect engagement, or conflict of interest with the extractive industries, whether past or present.

- **Agree suitable term limits**

Experience has shown that even if the multi-stakeholder group as a whole does not prescribe term limits for its members, CSOs should decide appropriate term limits for their country

context, in terms of duration and how many terms an individual can serve. A higher turnover rate brings a bigger pool of civil society actors into EITI deliberations, increasing collective knowledge and authority, and refreshing the multi-stakeholder dialogue with new thinking and energy. When Azerbaijan was still part of the initiative, civil society representatives had one-year terms, renewable only once consecutively. This high rotation yielded strong expertise as demonstrated by sophisticated analysis of EITI reports by Azerbaijani civil society. However, such extremely high rotation was very specific to

that national context and would generally not be advisable, as it increases the risk of losing valuable experience. Civil society needs strategies to retain the expertise gained by individual representatives, such as keeping former multi-stakeholder group members involved in discussions about the EITI, pairing them with new representatives through a mentoring system, or involving them in induction sessions for their successors. Depending on the multi-stakeholder group's rules and policies, future representatives could also attend group meetings before becoming full members, either as observers or alternates<sup>5</sup>.

<sup>5</sup> The EITI Standard does not require multi-stakeholder groups to have alternates, explaining the discrepancy in practice from one country to the next.

## STEP 2: ACCOUNTABILITY OF CIVIL SOCIETY REPRESENTATIVES



### CONTEXT AND CHALLENGES

Creating a strong link between civil society representatives and their constituents fosters accountability and boosts civil society influence in the multi-stakeholder group. In some contexts, a single civil society voice carries little weight when faced with companies' financial power or government control of state apparatus. As a cohesive group, however, civil society can better influence EITI decision making.

Civil society is often a diverse group of actors who pursue many different interests. If its representatives are disconnected from wider civil society and can speak only on their own behalf, the constituency will be perceived as divided and its message will be muddled. Without clear rules, tensions can arise, potentially leading to paralysing splits in the constituency. In countries as varied as Afghanistan and the United Kingdom,

a lack of clear governance processes for civil society's EITI participation, drawn up from the beginning, has caused disruptions. These have discredited it with the other two parties and diverted resources towards conflict resolution, rather than advocacy.

At times, it can be difficult for civil society to challenge the status quo during tripartite discussions, yet representatives often face high expectations from their constituency to deliver reform. Clear and regular communication with constituents enables representatives to clarify what is realistic and achievable, to be accountable and to harness support to influence the other two constituencies. Given the slow, technical nature of the EITI process, keeping wider civil society informed and actively engaged takes work, yet is vital for fostering a diverse and committed civil

society collective in the EITI. Multi-stakeholder group representatives must communicate with constituents in sustainable and relevant ways – including at community and grassroots levels.

To be accountable, representatives should protect themselves from undue influences. Potential conflicts of interest can undermine trust that they are acting in the constituency's best interest. The EITI Standard prescribes that civil society members of the multi-stakeholder group must be independent of government and companies<sup>6</sup>. Since March 2014, all EITI office holders have been bound by the EITI Association Code of Conduct, which includes details on how to address conflicts of interest. However, this does not cover the specific challenges faced by civil society relating to political affiliation and financial support, which create numerous real or perceived conflicts of interest. For example, could a civil servant who advises a CSO represent civil society? Do government per diems paid to representatives affect their independence?

There are clear arguments for compensating members of the multi-stakeholder group. Representing civil society effectively in the EITI requires considerable commitment. Representatives need to prepare extensively for meetings, coordinate with colleagues, travel for meetings and activities, and communicate with constituents. Civil society often lacks the resources to cover these costs, especially for representatives from the provinces. In some countries where the government does not meet travel costs, civil society representatives beyond the capital have been unable to attend multi-stakeholder group meetings, so can be unintentionally excluded.

However, government support for civil society participation in the EITI can, at times, create unease. In several African countries, including Cameroon, Congo Brazzaville and DRC, financial benefits accrued by individual representatives attending a single multi-stakeholder session exceeded an average monthly salary. These

were seen as disproportionate by other local CSOs, and created a perverse incentive to remain in post, preventing turnover of multi-stakeholder group members. The 2016 EITI Standard requires disclosure of policies around per diems and amounts paid<sup>7</sup>, but the issue remains controversial among many civil society constituencies.

### RECOMMENDATIONS

Based on MSI Integrity's findings and lessons learnt from across the PWYP movement, there are several useful practices that foster accountability and cohesion among the EITI civil society constituency:

- **Establish clear constituency guidelines**

Adopting agreed rules of collaboration helps significantly to create a shared understanding of how civil society hopes to gain from EITI participation. By investing time and energy into collectively agreeing a framework for its engagement, civil society can prevent internal rifts and reduce the risk of other constituencies interfering in civil society matters. These rules should be clearly presented as written terms of reference, a code of conduct or constituency guidelines, and should be made available to all civil society constituents and ideally to other stakeholders as well. MSI Integrity's guidance note for civil society on how to develop a code of conduct recommends that constituency rules cover:

- Nomination and selection processes for multi-stakeholder representatives
- Duration of mandate and term limits
- Expectations for attendance, preparation and participation at multi-stakeholder meetings
- Liaising with the wider constituency
- Clarifying conflicts of interest and provision for independence of representatives
- Enforcement and review of the code of conduct.

The code should clarify how civil society safeguards the independence of its representatives, outline measures to prevent conflicts of interest (such as disclosure duties for representatives and their organisations) and outline procedures to deal with allegations of partiality.

<sup>6</sup> "Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies" (EITI Standard, Requirement 1.4).

<sup>7</sup> See requirement 1.4 b) vi of the EITI 2016 Standard for guidance on per diems.



CSOs in Kazakhstan have disagreed among themselves for several years, which affects their decision-making power in the country's EITI multi-stakeholder group. In 2004, the first CSO coalition was established under the banner "Oil Revenues – under Public Oversight!", with more than 60 participating organisations. In the following years, however, several CSOs decided to leave the coalition to form separate associations based around CSOs from the extractive regions of Western and Eastern Kazakhstan. These groups started competing over the civil society seats on the multi-stakeholder group. Some appealed to the government, asking for external arbitration over the seat allocation among the various CSO coalitions. But the government refused to interfere, arguing that each constituency should follow its own rules and regulations.

With the advisory and financial assistance of donors, several meetings were organised in 2010 and 2011 with representatives from all CSO coalitions, to define a cooperation mechanism between the various groups. As a

result, the Dialogue Platform was established in 2011, on the basis of collectively agreed guidelines. The platform regulates elections to the multi-stakeholder group and coordinates principles, decision-making procedures, and internal and external communications. Several other CSO associations have since joined the platform, although others have chosen to remain outside. In 2013, the updated Memorandum of Understanding on EITI implementation in Kazakhstan was signed, with the Dialogue Platform as a signatory on behalf of civil society.

Although not perfect, the platform has proved to be a helpful communication tool. It enables sharing of information about EITI activities and facilitates discussions on EITI reports and Validation outcomes, including through its own email list and Facebook page. A coordinator helps maintain an open flow of information by liaising with coordinators from different groups and reaching out to those outside the platform.

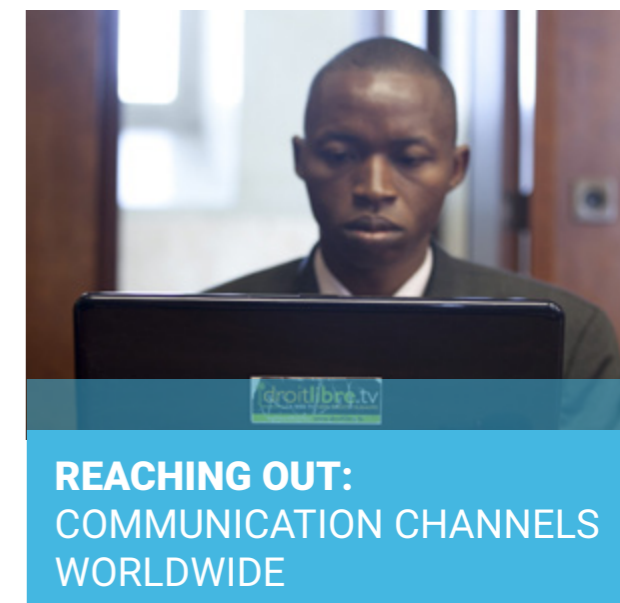
- **Tailor rules to the local context**  
Implementation of agreed rules can be challenging, but is easier if they are built around existing practices that accommodate local constraints. Guidance material and examples from elsewhere are helpful, but it is counter-productive to replicate processes unsuitable for a particular context. In Albania, for instance, civil society's well-intentioned code of conduct caused a seat on the multi-stakeholder group to remain vacant for several months because it prescribed that members needed to be appointed at a general meeting, for which no funding was available. A more pragmatic approach, such as online voting or appointment on a non-objection basis between general meetings, could have prevented the vacancy. Constituency rules need built-in flexibility and should describe appropriate local standards rather than aspirations that local CSOs will struggle to achieve.



MSI Integrity's guidance in formulating constituency guidelines has been applied by several PWYP coalitions. In countries such as DRC, Guinea, Ivory Coast, Mauritania, the Philippines, the [United Kingdom](#) and Zambia, local PWYP coalitions took the lead in drafting constituency guidelines in consultation with the wider civil society group engaged in the EITI. Consultations were carried out through workshops, smaller working groups, individual meetings and via email, before formal endorsement by all parties who agreed to abide by the guidelines or the code of conduct. Where codes of conduct were adopted, inclusive rounds of discussions offered a valuable opportunity to assess what makes civil society representatives effective and to better understand their roles and responsibilities. The code was then often drafted in such a way as to address certain shortfalls, such as lack of gender balance, insufficient coordination ahead of multi-stakeholder group discussions or potential conflicts of interest.

- **Establish agreed channels of communication with constituents**  
Finding ways to maintain a regular, open flow of information between representatives and their wider constituents is essential. These could range from evaluation workshops to faster, more affordable methods such as regular email updates. Feeding and responding

to regular information exchanges can be time-consuming, so if funding is available, the constituency could hire a dedicated coordinator to support representatives' work, in particular, with information sharing. Alternatively, multi-stakeholder group members could take turns to be responsible for communication, on a regularly rotating basis.



At **international Board** level, several representatives organise regional conference calls to gather input on the agenda before Board meetings. The PWYP Secretariat compiles a summary of Board decisions that is sent to all PWYP email lists, providing civil society analysis alongside the formal minutes of the meeting. Board members also use regional meetings as occasions to meet and discuss issues with their constituents in person.

**In the Democratic Republic of the Congo**, the local PWYP coalition organised a series of national evaluation workshops to foster two-way accountability. While assessing the quality of EITI implementation in the country, the workshops offered a unique opportunity to build understanding of the EITI process among Congolese CSOs and to facilitate dialogue between multi-stakeholder group representatives and wider civil society actors. Although representatives initially felt unsure about the



purpose of the exercise, they soon found these discussions highly beneficial, providing access to a wide pool of expertise and experience on the ground in the provinces. The evaluation workshops set a clear civil society agenda and gave civil society representatives greater authority to speak during multi-stakeholder group discussions, making the talks more productive. (See the full PWYP case study)

**In the Philippines**, Bantay Kita, the locally affiliated PWYP coalition, organises an annual civil society forum on EITI to review representatives' performance and consult wider civil society on objectives for the coming year. This delivers two-way accountability, with representatives assessed against commonly agreed targets, and the wider constituency supporting its representatives with outreach activities such as preparing briefings and media engagement.

**Nigerian** civil society founded a steering committee with around 20 members to help representatives on the multi-stakeholder group liaise with wider civil society. Member organisations are selected to deliver wide coverage of civil society groups involved in natural resource governance, in both geographic and thematic terms. The committee functions as an advisory board to civil society representatives and ensures that EITI discussions are informed by a wider group of CSO actors.

To trickle information down to community and grassroots levels, multi-stakeholder group members in countries such as **Papua New Guinea, Colombia and Congo Brazzaville** have

used dissemination activities following the publication of EITI reports to consult community members about the broader mandate of the EITI. In Congo Brazzaville, this resulted in the inclusion of the forestry sector into EITI reporting. As oil production mainly takes place offshore, many communities complained that EITI reports were of little use to them, as revenues from logging were far more important than those accrued from mineral extraction in their area.

#### • **Balance financial support with impartiality**

EITI participation generates costs which civil society must decide how best to shoulder. Representatives require support, particularly financial, but must preserve their impartiality and be clearly seen as doing so. Participation in the EITI should be a strategic choice for civil society, made by weighing financial and opportunity costs against potential advocacy benefits. In countries such as Colombia, Mexico and the Philippines, local CSOs identified the gains they could expect from engaging in the EITI before conducting targeted fundraising activities that would allow them to participate without government support. French CSOs' reluctance to spend scarce resources on a process offering little more than a pro-forma exercise swayed France's decision not to pursue an EITI application in 2013. Where the government arranges financial support for domestic CSOs to participate in the EITI process, transparency is essential. In Germany, where four organisations represented in the multi-stakeholder group received government funds to help them participate effectively, the [EITI website](#) lists publicly which organisations received funding and how much.

## STEP 3: MAXIMISING INFLUENCE AND NEGOTIATING POWER



### CONTEXT AND CHALLENGES

The EITI is a space of permanent negotiation between civil society, industry and government. Civil society may sit around the table, but this does not always mean it has the ability to influence outcomes. To make important gains, it needs a sophisticated strategy to influence the other parties. It also requires resilience. Many difficult conversations drag on for months, if not years.

However, as a diverse group of actors, pursuing many different interests, civil society is prone to divisions. From Guatemala and Kazakhstan to Tanzania and the United Kingdom, civil society has suffered internal tensions that have undermined its influence over EITI implementation. The institutional arrangements which govern interactions between the three constituencies can also affect civil society's influence. Having

the best argument is not always sufficient to achieve consensus over a civil society proposal. Where decisions are taken by simple majority voting – as opposed to by consensus or qualified majority voting<sup>8</sup> – civil society is deprived of its influencing power, while the government and companies can stand together to protect the status quo.

To create goodwill among other constituencies and increase the likelihood of support for its proposals, civil society is encouraged to engage in countless formal and informal interactions in the margins of official meetings. There are usually various forms of working group or committee meetings which prepare for the final discussion in plenary. These are crucial for civil society to introduce and test its proposals, build alliances with actors from the other two constituencies and shape the drafting of important documents.

<sup>8</sup> The international EITI Board takes almost all its decisions by consensus. On rare occasions, however, it has used qualified majority voting. Article 14 of the EITI Articles of Association states that a decision is passed when it obtains the majority of the total votes, provided that it secures at least one third of the votes in each constituency.

## RECOMMENDATIONS

To strengthen its negotiating power with government and business stakeholders in EITI discussions, civil society can take several steps.

- **Coordinate to achieve one voice**

For civil society to steer discussions and be heard, it helps considerably to speak with one voice. This requires internal coordination, both at multi-stakeholder group and wider CSO levels. Civil society representatives should engage with other CSOs so they can present positions at the EITI with broad backing among their constituency and resist attempts by other actors to drive wedges between them. In many EITI implementing countries, CSOs have created a dedicated coalition or network for coordination, often with support from the PWYP movement. Such platforms foster agreement among CSOs about common goals and priorities under the EITI, providing a clear mandate and lines of accountability that help representatives manoeuvre strategically in multi-stakeholder group meetings. Effective coalitions rest on agreement over objectives, governance procedures and membership, and require considerable time and management, but this investment can provide representatives with a wider pool of expertise and support with their workload. In Colombia, for example, a dedicated advisory group provides civil society representatives with feedback on documents tabled for discussion and tactical advice on defending civil society interests. This builds CSO solidarity and strengthens the representatives during tripartite negotiations.



## GUATEMALA: PAYING THE PRICE FOR DIVISIONS

Guatemala's extractive sector is associated with a high level of conflict. Failure to consult local and in particular indigenous communities over mining projects on their land often results in violence, regularly placing the country among the 10 deadliest for environmental and land activists, according to [Global Witness](#). When the government decided to join the EITI in 2011, many members of domestic civil society viewed this as an attempt to whitewash a controversial industry. Limited outreach efforts failed to explain the purpose of the EITI and the extent to which local CSOs, including so-called "anti-mining groups", could benefit from the process – for instance, by using the data published by the EITI to question the sector's socio-economic viability.

However, a few groups felt that the EITI was worthwhile and started to engage with the initiative, attending multi-stakeholder group meetings on behalf of civil society. They did this without sufficiently coordinating their efforts with wider civil society and failed to regularly report on their activities. Amid poor communication, suspicion grew among broader civil society that those groups were co-opted by industry or the government and were receiving payments for their participation in meetings. These allegations proved false, but anti-mining groups publicly discredited representatives as traitors and portrayed the EITI as a scam. Undermined by their peers, CSO representatives on the multi-stakeholder group lost their bargaining power with the other two constituencies and have since been unable to steer group discussions towards addressing questions of real concern to civil society.

- **Agree discussion tactics**

Representatives should ideally also coordinate among themselves if they are to negotiate most effectively with the other two parties. Smart preparations and articulate rhetoric during

a meeting are crucial. Before discussions, representatives should define both their ideal objective and their minimum acceptable position, and prepare supporting arguments backed by convincing evidence. This is particularly important when civil society wants to table a new item. By preparing and coordinating this way, PWYP representatives in Cameroon had the issue of beneficial ownership included in the 2014 work plan, well before this type of disclosure became a requirement in the 2016 EITI Standard. Impressed by civil society's professionalism, the other stakeholders seconded the proposal.

Representatives may wish to decide before a meeting who will say what, and when. Tactics may include the "good cop-bad cop" approach, where one representative takes a more radical position at the beginning so others can come in subsequently with a stance seen as more moderate. Alternatively, it might be preferable to let other constituencies speak first so civil society can address their points in a final statement, to say nothing until asked or simply to conserve influence for more important agenda items. As well as in advance, such tactics must also be considered during the meeting, for instance via SMS or Whatsapp group messages.

- **Shape and work with EITI mechanisms**

Under the EITI, civil society can feed into the terms of reference for the multi-stakeholder group, meaning it can seek to maximise its chances of being heard. For example, if simple majority voting is proposed for decision-taking (which could disadvantage any one single constituency), civil society should challenge this on the basis that the EITI Standard requires inclusive decision making<sup>9</sup>. A rotating chairmanship among all three constituencies can also influence the sequence in which civil society will table subjects considered more controversial. MSI Integrity's 2015 report<sup>10</sup> offers valuable guidance on the governance of national multi-stakeholder groups. Recommended steps include adopting a participatory approach to developing internal governance rules for multi-stakeholder groups,

<sup>9</sup> EITI Standard, Requirement 1.4

<sup>10</sup> See the Guidance Note Protocol for Developing Robust Internal Governance Rules and Procedures for Multi-stakeholder Groups.

and ensuring that provisions comprehensively address policies, procedures and expectations for members.

Forming, joining or volunteering to chair a relevant working group are excellent ways to steer a discussion. However, in many cases the chair is expected to be impartial, so civil society should weigh the pros and cons of accepting a chairing position. Another useful approach is to develop close ties with the national EITI secretariat which supports the work of such committees and drafts papers that form the basis of further discussion. Working closely with a secretariat can enable multi-stakeholder group representatives to see initial drafts and provide input early in the process. This helps prevent unpleasant surprises and enables civil society to align itself over controversial points.



## MEXICO: LAYING FOUNDATIONS FOR MEANINGFUL DISCUSSIONS

Mexico became a member of the EITI only after several years of preparation. A particular challenge for stakeholders was to overcome deep mutual distrust. Many domestic CSOs were sceptical of a process which they saw as an endorsement of energy reforms passed in 2013-14. They feared it would legitimise practices such as fracking that had resulted from the reforms, which they vehemently opposed. Following substantial consultations and discussion, the civil society constituency agreed on a Declaration of

Principles to guide their engagement in the EITI. However, when the three CSO representatives read the declaration out during the first official multi-stakeholder group meeting, government and industry representatives felt taken by surprise. The declaration had neither been put on the agenda of the meeting nor circulated beforehand to give the other two constituencies a chance to consult among themselves and provide comments. As this approach went against the principles of multi-stakeholder dialogue, company and government representatives refused further discussion. It took almost a year of continuous dialogue, facilitated by the national EITI secretariat, to bring all stakeholders back to the table and to agree a common [Declaration of Principles](#). The signature of the declaration was an essential trust-building measure, which allowed all three parties to clarify their expectations regarding the general objectives of the EITI in Mexico.

Further measures followed to strengthen stakeholders' ability to work together effectively. [Rules of operation](#) were elaborated over several months to comprehensively address important aspects of the group's functioning, from logistics to decision making and addressing concerns raised by external actors. In particular, the multi-stakeholder group spent time examining "consensus" as a concept, before determining that all parties would strive to take decisions as often as possible by consensus, falling back on qualified majority voting only in exceptional cases. (If voted on, motions are considered adopted when at least two thirds of each constituency vote in favour).

The multi-stakeholder group established a [glossary](#) to create a shared understanding of key concepts such as "beneficial owner", "materiality", "conflict of interest" and "open data". This has proved extremely useful for preventing misunderstandings and focusing debates on substantial issues rather than semantics. Mexico's experience shows the value of investing

time and effort at the outset in defining a clear and fair institutional framework for EITI engagement. This builds trust and enables effective dialogue in the long term.

- **Cultivate relationships and build trust**

Both formal and informal interactions can help CSO representatives win trust from the other parties. This does not eliminate difficult discussions, but does enable healthy dialogue. As well as at meetings, civil society representatives can nurture relationships with company and government colleagues informally, during breaks, dinners, conferences, workshops, dissemination activities and journeys. Coordination among CSO representatives is crucial in such efforts behind the scenes, given their time-consuming nature. Strong relationships allow civil society representatives to identify potential allies and gather intelligence that can help them frame issues in acceptable ways or arrange a deal where another party agrees not to block a decision in exchange for support on a different agenda item. By mapping allies in the multi-stakeholder group – as well as among advisers or staff members – representatives can focus their influencing efforts on their most likely supporters or those most influential within the group.

- **Campaign to overcome resistance**

When facing barriers in the multi-stakeholder group, civil society may sometimes need to increase pressure on the other two constituencies. Overcoming resistance can require substantial and sustained campaigning, based on long-term planning and constant coordination. This can involve strategic manoeuvring in meetings and working groups, media campaigning and advocacy, and leveraging relationships. Although intensely demanding, such efforts can yield substantial benefits. At international Board level, for example, it took civil society several years to obtain a compromise acceptable to all parties over mandatory disclosure of beneficial ownership<sup>11</sup>.

<sup>11</sup> This campaign involved the publication of reports and investigations by Global Witness to demonstrate why disclosure of beneficial ownership was important; the production of technical briefings by the Natural Resource Governance Institute to show how disclosure could work within the EITI; roundtable discussions alongside EITI Board meetings and international events; the mobilisation of national-level PWYP members, and numerous blogs, communiqués and news articles outlining the benefits of disclosure. See: <https://www.globalwitness.org/en/archive/myanmar-takes-global-lead-company-ownership-transparency/> <https://www.globalwitness.org/en/archive/azerbaijan-anonymous/> <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/how-lose-4-billion/>

Even in cases of extreme resistance, leaving the table until certain demands are met should not be considered as a negotiating tactic. Whether refusing to participate in one specific meeting or walking out of the entire process, civil society risks many disadvantages by withdrawing. Even threatening to do so could undermine its reputation as a mature and reliable negotiating partner. If civil society is not united and its representatives could easily be replaced by ones less legitimate and knowledgeable, who were not chosen by self-selection, withdrawal offers little benefit. It can also bring unintended

consequences. In 2017, the [UK Civil Society Network](#) withdrew from the EITI in protest against perceived government interference in the civil society selection process. The network has since been blamed for jeopardising the UK's EITI Validation, even though its decision followed two years of continuous engagement with the government and other stakeholders to find a solution. A decision to withdraw must only be taken collectively, in extreme circumstances, and after substantial consultation with broader civil society.

## STEP 4: THE CIVIL SOCIETY PROTOCOL



### CONTEXT AND CHALLENGES

Civil society's role is formally anchored in the EITI's institutional structure<sup>12</sup>, giving it equal say in decision making at both national and international Board levels. However, recognising the importance of ensuring adequate civil society participation in light of the rising threats<sup>13</sup> against civil society engaged in natural resource governance, the Board adopted the [Civil Society Protocol](#) in 2015, as part of the EITI Standard. The Protocol provides an assessment framework to evaluate compliance with civil society requirements in the EITI Standard, in particular requirement 1.3. In 2016, this requirement became a "safeguarded element" of the Standard, meaning that failure to comply with it has more severe consequences than breaches of other requirements<sup>14</sup>.

Under the EITI Standard, governments must provide an "enabling environment"<sup>15</sup> for civil society participation in the EITI. The Protocol provides a framework to assess whether governments are effectively guaranteeing that space, covering five key areas:

- **Expression:** Civil society representatives can engage in public debate and express opinions about the EITI process without restraint, coercion or reprisal
- **Association:** Civil society representatives can operate freely in relation to the EITI process
- **Operation:** Civil society representatives can communicate and cooperate with each other regarding the EITI process

<sup>12</sup> Principle 13 of the EITI Founding Principles, adopted in 2003, states: "In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors and non-governmental organisations."

<sup>13</sup> Threats to civil society engaged in natural resource governance are widely documented by Global Witness, PWYP and CIVICUS, Article 19, the Heinrich Böll Foundation and others.

<sup>14</sup> Requirement 8.3. c. i in the EITI Standard addresses the consequences of non-compliance with the civil society requirement.

<sup>15</sup> The EITI Standard prescribes that "The government must ensure that there is an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected" (requirement 1.3 b).

- **Civil society engagement in the EITI:** Civil society representatives can be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process
- **Access to public decision making:** Civil society representatives can speak freely on transparency and natural resource governance, and ensure that the EITI contributes to public debate.

Implementing countries are expected to comply at all times with the civil society provisions in the EITI Standard. The international Board assesses compliance on the basis of the Protocol when a country applies for EITI membership and on a regular basis through the Validation exercise. In addition, the Protocol can be used by the Board in exceptional circumstances to investigate allegations that an implementing country is not abiding by the EITI Principles and Requirements, including civil society provisions in the Standard<sup>16</sup>.

To examine the five areas of the Protocol, the EITI Secretariat takes into account only factors directly relevant to the EITI process. The assessment involves a desk review of existing paperwork and consultation of relevant stakeholders both inside and outside the country. Whereas no specific rules apply for the data gathering by the Secretariat at candidature level, the Validation [procedures](#) give clear guidance on how to proceed. They request that the initial assessment is further reviewed by stakeholders in the country, as well as an external validator, before being submitted to the EITI Board.

The Board then reviews the relevant documentation, agrees the level of compliance and decides on the consequences of non-compliance. A candidate country can potentially see its application rejected, while a country undergoing Validation would risk being suspended and issued with corrective actions to complete within a given timeframe. This will mainly depend on whether the Board agrees that the country's failure to achieve satisfactory

<sup>16</sup> Provision 8.6 a) of the EITI Standard.

progress against requirement 1.3 on civil society is due to deficiencies relating to the Civil Society Protocol<sup>17</sup>.

The EITI also has a number of other tools available to civil society representatives to [raise grievances](#) outside the Validation process. However, a workshop organised by MSI Integrity in 2016, convening leading human rights and accountability experts, EITI board representatives and advocates for natural resource governance, produced a [report](#) concluding that the EITI continues to lack trusted processes for raising and addressing concerns over civic space. It recommended investigating levels of undetected violations of the Protocol, strengthening existing accountability mechanisms and introducing an improved remediation mechanism. The EITI Board is currently exploring these recommendations to further strengthen its ability to ensure meaningful civil society engagement in the EITI.

### RECOMMENDATIONS

Civil society can take several steps to make the best use of the Protocol:

- **Keep records of EITI participation**  
Civil society should invest time and resources in documenting its participation in the EITI, to feed into the information gathering phase of the Secretariat's compliance assessment. In particular, records should document any obstacles civil society faces while taking part in activities relevant to EITI implementation in the country. Ensuring that national multi-stakeholder groups keep adequate records of stakeholder participation in the EITI and make them publicly available on their country websites can be a good way to achieve this.
- **Build on the Protocol to improve civic space**  
Although the Civil Society Protocol is first and foremost a tool for the Board to assess compliance with EITI requirements, stakeholders in the national context can build on the Protocol to improve and protect the space for civil society to engage in natural resource governance. A PWYP Secretariat infographic captures key opportunities offered by the Protocol, and steps to take when civil society rights are violated.

<sup>17</sup> Requirement 8.3.c.i

## MYANMAR: USING THE CIVIL SOCIETY PROTOCOL TO ENGAGE IN CONSTRUCTIVE DIALOGUE

Following [violent repression](#) of demonstrations around Myanmar's Letpadaung copper mine in 2014, the [Myanmar Alliance for Transparency and Accountability \(MATA\)](#) – the civil society coalition engaged in the EITI – forced a multi-stakeholder group discussion on the basis of the Civil Society Protocol. During the extraordinary group session, civil society was able to raise its concerns and obtained unusual access to government information concerning Letpadaung. MATA used the EITI to engage in a useful formal dialogue with the government and increase the political resonance of events. The case remains significant, partly because MATA has not repeated this type of escalation, despite the difficulties that local civil society actors encounter on a regular basis. Instead, the alliance has piloted a reporting template based on the EITI Civil Society Protocol to systematically document incidents and various types of restrictions. MATA members were given training on how to use the reporting template in 2016 and have since been collecting evidence at the sub-national level. Analysis of the compiled information is expected ahead of Myanmar's 2018 Validation, providing a detailed account of the limitations CSOs continue to experience in the country when speaking out about transparency and accountability in the extractive sector.

### • [Assess potential consequences when using the Protocol](#)

When using the Civil Society Protocol to pressurise a government to protect or widen civic space, CSOs must assess potential unintended consequences. Both Niger and Azerbaijan withdrew from the EITI in 2017 after the Board

announced their suspension for failing to comply with the Protocol, leaving local and national CSOs with one less transparency tool. Local CSOs must discuss how best to leverage the Protocol in their specific context and present a united front to the potentially repressive government.

Several key questions can help guide CSO actors in repressive environments.

Before joining the initiative:

- Is an EITI application worth pursuing if the government refuses to guarantee space for meaningful civil society participation? Will civil society be better able to promote good governance of the extractive sector through participation in the EITI?
- What minimum guarantees does civil society require from the government to participate in the initiative?
- How much of a national priority is the EITI and how much influence do EITI representatives have within government? Are concessions on civic space in relation to EITI implementation likely?
- Does wider civil society back CSOs engaged in discussions about EITI entry?
- Is the government committed to transparency as a means to foster more openness, genuine public dialogue and accountability in the country's extractive sector?

As an implementing country:

- If civil society highlights violations of the Protocol, will a country's suspension serve or undermine civil society's agenda?
- How will civil society deal with potential consequences, including accusations of working for foreign interests or the risk that the country leaves the EITI?
- Do wider civil society and international partners back CSOs in the multi-stakeholder group?

## AZERBAIJAN: UNACCEPTABLE RESTRICTIONS ON CIVIC SPACE

Azerbaijan was among the pioneering countries that piloted the EITI in the early 2000s. It was also the first country to reach compliance under the EITI rules in 2009. While successful in implementing the technical reporting requirements, the country always struggled with the civil society component. On several occasions, the EITI Board intervened to remind the government of its commitment to respect the space necessary for domestic civil society to participate freely in the process. However, the situation deteriorated when the government introduced highly restrictive NGO legislation between 2013 and 2015.

Civil society representatives on the EITI Board worked closely with local CSO partners to highlight the situation during Board meetings and discussions of the Rapid Response Committee tasked with monitoring the situation on the ground. Significant campaigning efforts, including on behalf of PWYP, led the Board to start a formal investigation. A fact-finding mission presented its confidential findings in October 2014 and concluded that civil society was prevented from participating fully in the Azerbaijani EITI process due to the recent legislation. In response, the Board decided to start an early Validation, so it could run a full assessment of the country's compliance with the EITI Standard, including the newly-adopted Civil Society Protocol.

The Validation report confirmed that domestic CSOs faced significant obstacles when engaging in natural resource governance. Consequently, the EITI Board removed Azerbaijan's compliant status in April 2015 and gave the country one year to undertake corrective actions that would restore an enabling environment for local CSOs.

This was a significant decision within the EITI, with large-scale mobilisation by PWYP members playing an important role in convincing the Board to stand up for the principles of the initiative, which include effective participation by all three stakeholder groups.

The EITI Board convened again in October 2016 to discuss Azerbaijan's second Validation. Following some encouraging signs, it granted Azerbaijan an additional delay in the hope that it would spur the government's efforts to lift restrictions on civil society. Those hopes were eventually disappointed and the Board suspended Azerbaijan in March 2017 for failing to comply with the Protocol, three years after initial concerns had been raised. As a result, the government of Azerbaijan announced its withdrawal from the EITI the following day.

The case demonstrates that despite successive efforts to strengthen EITI requirements over civil society, application of the Protocol remains difficult. The burden of proof rests with civil society, which must invest significant resources to systematically document violations of the Protocol. This can be especially challenging when links between international CSO Board members and CSOs at the national level are weak.

### • [Report ad hoc violations](#)

Local civil society should report ad hoc violations of the Protocol to a civil society Board representative who can convene the Rapid Response Committee. The EITI Secretariat is then usually tasked to investigate further and brief the committee. If a direct link is established between the incident and the EITI process, the committee can recommend a series of possible actions to the Board. An official communication by the EITI Board, for example, helped obtain the swift release of activist and EITI multi-stakeholder group member Ali Idrissa, arrested in Niger in July 2014 for denouncing secrecy around negotiations between French energy firm AREVA and the Nigerian state over uranium extraction.

## CONCLUSION

Experience from around the world clearly shows that setting up and maintaining credible and effective civil society representation on the national multi-stakeholder group pays off in the form of increased ability to influence EITI implementation. Key recommendations drawn from the experience of PWYP members worldwide include:

- Identify a broad range of CSOs to become involved in the EITI, rather than relying on a few organisations. This requires ample consultation at the beginning of the EITI process, and regular outreach in subsequent years, but enables sustainable and legitimate civil society participation in EITI discussions.
- Clarify expectations for CSO representatives and determine how the constituency should organise its engagement in the EITI. This should be done early in the EITI process, in the form of a written document, ideally publicly available. Beyond fostering trust in representatives' legitimacy, this can help prevent destructive dynamics and provide the means to resolve potential conflict.
- Ensure regular communication between CSO representatives on the multi-stakeholder group and wider civil society. This is often a challenge, but is indispensable to fostering cohesion within the constituency and allowing civil society to defend its interests with one voice.
- Engage constructively with business and government constituencies in EITI discussions. This is the most effective way for civil society to best leverage the EITI platform.

All these steps are essential to maximise civil society's influence in the EITI and set it up for success during the following stages: ensuring that EITI reports disclose meaningful and quality

information (Chapter 2) and that EITI data empowers civil society and citizens to push for reforms that improve the governance of the sector (Chapter 3).

## GLOSSARY

**Civil Society Protocol:** The Protocol was adopted in 2015 as a framework to assess an implementing country's level of compliance with the civil society provisions in the EITI Standard (requirement 1.3).

**Code of conduct/constituency guidelines:** At the international Board level, constituencies collectively agree guidelines that will rule their internal governance processes and determine, among other factors, how they appoint their representative to the Board. At national level, some civil society constituencies have decided to adopt similar documents – “codes of conduct” or “Terms of Reference” – to clarify expectations for CSO representatives on the multi-stakeholder group.

**Constituency:** EITI stakeholders are organised into the constituencies of Governments, Companies and Civil Society.

**Compliance:** compliance describes the fact that an implementing country has made satisfactory progress either overall or against a specific requirement of the Standard.

**EITI Board:** The executive body of the EITI is the international Board. As its main governing body, the Board decides on priorities for the initiative and evaluates countries' performance in reaching the requirements of the Standard.

**EITI Standard:** The EITI Standard was introduced in 2013 and refined in 2016. It lays out the requirements for EITI implementing countries in terms of process as well as of disclosure, defining the actual content and format of the information released about the extractive sector.

**Implementing country:** A country that decides to join the EITI in order to implement the requirements in the EITI Standard and whose application is accepted by the EITI Board.

**Multi-stakeholder group:** each implementing country sets up a national governing body which comprises representatives from government, business and civil society to decide how the national EITI process should work.

**PWYP Value Chain:** The Value Chain refers to the PWYP strategic framework. It was adopted in 2002 to outline the various campaign objectives of the global coalition which follow the extractive value chain. The resulting “Chain for Change” presents 12 core advocacy options for PWYP members.

**Rapid Response Committee:** The Rapid Response Committee monitors events that could put EITI stakeholders or the EITI process in implementing countries at risk, and makes recommendations to the Board for possible responses. It is composed of Board members from all constituencies and meets in a timely fashion after a significant political development has been flagged to the EITI Board.

**Representative:** Person chosen by his or her group of stakeholders to speak on their behalf and take part in the relevant decision-making body (the EITI international Board or a national multi-stakeholder group).

**Safeguard:** This expression is used informally to refer to the elevated status of certain requirements in the EITI Standard. The consequences for failing to comply with these requirements are more severe than for the remaining requirements.

**Validation:** Validation is the quality assurance mechanism used by the EITI Board to assess a country's performance in implementing the Standard. As such, it protects the integrity of the EITI by holding implementing countries to the same global standard. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is in line with the provisions of the EITI Standard. Validation starts 2.5 years after a country joins the EITI and is then repeated on a regular basis. Consequences of non-compliance are detailed in Section 8 of the Standard.

# Introduction

## TO CHAPTERS TWO AND THREE

Information is a key source of power. It has great potential to influence institutional, economic and cultural transformation. Access to and use of data is critical for civil society to define and achieve its objectives. Advocacy and demand for accountability in the extractives sector can be significantly stronger and more credible when backed up with reliable evidence and data. Such information also enables activists to customise their communications so they resonate with different stakeholders.

Transparency and data disclosures are often seen as ends in themselves, but this should not be the case. Data must be turned into understandable information and used proactively if it is to influence decision-makers and public opinion. As civil society demands information, it also bears a responsibility to use that information effectively. Civil society organisations are well placed to play the role of translator, guide and political advocate when it comes to using data, enabling citizens to make practical use of critical information disclosed through various channels. Once the data is transformed into information and knowledge, civil society needs to communicate essential findings effectively to its target audiences to advance advocacy or other social change objectives. These may include:

- ensuring citizens benefit from their natural resource wealth
- supporting empowerment of citizens and civil society to engage in the governance of natural resources
- influencing policymaking processes
- building trust between different stakeholders
- identifying government revenue losses, non-compliance or corruption
- changing cultures, behaviours and norms
- supporting inclusiveness in decision-making.

Civil society has much to gain through disclosure and analysis of data related to the governance of extractives. The Extractive Industries Transparency Initiative (EITI) – the global standard for transparent and accountable governance of natural resources – has often been the primary framework used by civil society to engage with governments and companies regarding access to information about the realities of extractive industries in their countries. The initiative has often provided an official platform, where civil society can put sensitive issues on the table, and that can inform discussions with reliable data that is acceptable to all stakeholders. To create and sustain the responsible governance of natural resources, civil society has to use data in this context in ways that will contribute to or generate new informed public debates that lead to significant reforms in a country.

As systematic disclosure of data by governments and companies becomes more prevalent, civil society needs to be ready to maximise the opportunities and navigate the challenges these developments might bring. As EITI-implementing countries start enabling online access to government and company data in machine-readable format, this will create supplies of information that require different types of analysis and raise new challenges for civil society in terms of interrogating and interpreting the data. This guide aims to support civil society's efforts to make a significant contribution to the EITI process and beyond, and to use it strategically to bring change on the ground and improve transparency and

accountability in the extractives sector. The content is designed to enhance civil society's skills in the strategic use of EITI data by focusing on the EITI implementation process, rather than providing technical guidance on reporting requirements.

Chapters Two and Three address critical issues in the use of extractives data, including:

- why data is useful for civil society, in particular for achieving its advocacy objectives
- what kinds of data are most useful to civil society
- where to access data, from both EITI and non-EITI sources
- strategies to ensure data disclosures meet civil society needs
- how to analyse data, including the data needed to hold governments and companies to account
- how to use data to develop and implement advocacy campaigns, and to address challenges faced by communities in resource-producing areas.

### HOW CHAPTERS TWO AND THREE WERE PRODUCED

These chapters were written through a joint writing process over five days by 12 experts in extractives transparency. Each brought different knowledge, skill sets and experiences, from community outreach and EITI processes to data analysis. The group used the 'Book Sprints' writing methodology, a collaborative writing technique based on brainstorming, writing and editing, throughout the workflow. The process was expertly facilitated by Faith Bosworth and the text was edited by Raewyn Whyte from Book Sprints.

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## **Chapter Two:**

Identifying, collecting and publishing the right data





data disclosure prevents parties acting in a closed or non-transparent manner, promotes responsibility among the concerned parties, addresses the issue of corruption, and enables targeted analysis and action.

# Chapter Two:

## Identifying, collecting and publishing the right data

### 2.1 WHY IS DATA USEFUL FOR CIVIL SOCIETY?

#### 2.1.1 INTRODUCTION

Data has become a fashionable word over the past decade for stakeholders involved in policy discussions. When this guide refers to ‘information’ or ‘data’, it can mean either: a) qualitative information that may be disclosed in an Extractive Industries Transparency Initiative (EITI) report or through other channels (such as the description of licensing procedures or sectoral reform plans); or b) quantitative data, i.e. numbers concerning production, value, sales, taxes, revenues, employment etc. Numbers may be first-hand or the product of further analysis. This guide uses both terms, remembering the expectation that what is provided must meet a certain threshold if it is to be considered as ‘evidence’, as opposed to anecdotes and experiences.

One long-term civil society goal is to improve natural resource governance through extractives sector transparency. The process of achieving such transparency starts by identifying the

information already available (after national priorities have been determined in consultation with the wider civil society constituency). Then follows a need for broad discussion within civil society and local communities about the gaps in what information is available. This requires thinking about the bigger picture, looking for such longer-term priorities as building sustainable values and disclosure mechanisms, and the norms that support greater transparency and accountability.

Prior to discussing the need for data, groups should establish a clear understanding of the fact that transparency and data disclosure are not solutions in themselves, but tools that can influence natural resource governance. When asking for data disclosure, civil society should be mindful of how it is going to use the data. The EITI process generates substantial information and it is up to civil society to work out how best to use it (see Chapter 3).

This section illustrates the benefits of data for civil society and gives examples of the types of questions that can be resolved.

#### 2.1.2 WHAT CAN DATA DO FOR CIVIL SOCIETY?

Data can help in monitoring the impacts of public policies and understanding the in-depth processes of social transformation, the interactions and impacts between different programmes, and the factors that must govern decision-making. Data allows assessment of public policy effectiveness and appraisal of the gaps between legislation/policy and implementation. Data can help civil society to influence decision-making and hold governments accountable for their commitments. For example, most of the recent reforms around extractives governance in Nigeria stem from the first EITI report, which sheds light on specific governance issues, including the now well-known issue around tax collection by government entities. Civil society has continued to push beyond the EITI reporting framework to achieve sustainable mechanisms of disclosure and revenue benefits for local communities.

Data disclosure prevents parties acting in a closed or non-transparent manner, promotes responsibility among the concerned parties, addresses the issue of corruption, and enables targeted analysis and action. Data highlights what governments are engaged in, with whom and how, and for which populations. In addition, data can reveal the actors involved, achievements of public policies and the degree of importance attached to a problem. It is essential in verifying that company payments are correct, are received by governments and are used to benefit citizens in resource-rich countries.

The examples from Albania and Myanmar illustrate how data can help to stimulate dialogue and increase transparency in the extractive industries.

#### STIMULATING DIALOGUE IN MYANMAR

When the EITI process began in 2011/12, the country had been ruled by a military regime for decades, with economic sanctions imposed by the United States and the European Union. There was a distinct lack of space for civil society action. Other than a few reports published by exiled groups, there was almost no publicly available information on the extractives sector. The military took significant revenues from extractives, from hydrocarbons to precious stones. If not the main reason for internal conflict between the armed forces and armed ethnic groups, control over natural resources had contributed extensively to fuelling long-term internal disputes. In a context where information was generally missing and stakeholders clearly did not trust each other, data acquired through EITI played an important role in allowing dialogue about extractives issues to begin. The initiative launched a process of information generation, from the first EITI pre-scoping study in 2013 to the second report published in March 2018. The EITI process has also opened a channel for many organisations to research and publish data on Myanmar extractives, and groups are starting to document some of the country’s most opaque sub-sectors, such as the jade sector.

#### INCREASING TRANSPARENCY IN ALBANIA

Five years ago, citizens were unaware of the payments made or contributed to local communities by extractives companies. EITI reporting revealed that local government units often failed to receive their statutory share of royalties. In the past, the transfer of 25% of fees to local government units was contingent on the units gaining 120% of their budgeted local taxes. This was nearly impossible to achieve on a consistent basis. In 2014, following EITI reporting, the allocation formula and share of royalties were changed, making it easier and allowing more time for local governments to receive the transfers. In 2015, for the first time, US\$1.6 million was allocated to local governments. View this news item for more information.

### 2.1.3 WHAT KINDS OF QUESTIONS CAN BE ANSWERED USING EXTRACTIVES DATA?

Data can be useful for many different purposes and to a diverse range of stakeholders. Questions that can be answered from a civil society perspective include the following.

- What portion of revenues is my community supposed to get from an extractive company operating in my region? And how do we get it (through local government or directly from the company)?
- How many women are in the extractive labour force and how many are part of management?
- Do extractive industry companies pay all their taxes to the government? Are these taxes fair as per the contract, or have we been cheated?
- Will we be compensated by the local government for any ecological damage? (We know the government has already received compensation from the company.)
- How does data from companies and governments demonstrate women and men being affected differently by extractive industries?
- According to the latest EITI reports, are any revenue-sharing issues identified between local and central government?
- If there is any suspicion of corruption, unfair contracts, unpaid taxes or environmental and social fees, and opaque government involvement and sector management, citizens and civil society should look at the related data (including EITI reports) and analyse it to find answers. These suspicions are referred to as 'red flags'.

It is also essential to consider what data would be useful to which stakeholders and for what purposes. The data required by an ombudsman or an auditor is likely to be very different – and in different formats – from that needed by citizens to understand how revenues from extractives might affect their lives. By thinking through these

different user needs or 'use cases', civil society organisations can prioritise the disclosures on the specific natural resource data they are advocating for. They can also maximise the potential benefit to different stakeholders. Questions that could be asked by various stakeholders (and that could be answered with data) include the following.

- For a member of parliament: How many people are employed by the mining sector and which provinces do they originate from?
- For an investigative journalist: Why did company N pay zero tax this year?
- For the mayor of a district dependent on mineral operations: If I have the revenue projection from the company, how many years can I rely on this source to contribute to the city budget, and what would be my strategy when this source comes to its end?

In a context where open data is becoming the norm, civil society must be mindful that some data analyses could be complicated and require specialised skills and knowledge. Civil society can play a role in accessing and analysing data, and adapting the analyses for different audiences. For example, the process of enabling a local community affected by mining to find out how much revenue is paid to local government, and how this revenue is allocated, may involve an advocacy organisation working at national level to ensure data is released. A combination of technology organisations and extractives experts would then need to analyse the data and make the findings available so community-based organisations could use them in preparing further briefings or 'primers' that are adapted to the target audience to provide a succinct communication for the local community.

Data use must be focused on the audience and there are many tools and strategies that can help organisations to be audience-focused in the ways they use data. These include the Open Mining Governance online learning resource guide, which aims to increase access to, understanding of and use of mining disclosures in the Philippines.

### 2.1.4 RECOMMENDATIONS FOR CIVIL SOCIETY ON DATA USE

- Be aware of the potential of data to bring about change.
- Ensure that data disclosed is relevant to both national and local priorities, and that it meets the information needs of each constituency.
- Use data to address sectoral challenges.
- Map out which data will be useful to which type of stakeholder.
- Push for the use of open data.

## 2.2 WHAT KINDS OF DATA BEST MEET THE NEEDS OF CIVIL SOCIETY?

### 2.2.1 INTRODUCTION

The first step when working with data is to determine what data is needed in response to the priorities and concerns of different stakeholders. Primary stakeholders are civil society groups working on extractives and those working on related issues in communities affected by extractive industries. Other key groups in civil society may include faith-based groups and academic actors (since academia is an important generator of information and knowledge). Additional stakeholders that are likely to benefit from the availability of both EITI and non-EITI data include different branches of national government, the media and the extractive companies themselves. When selecting stakeholders inclusively, it is important to consider gender balance, geographical distribution and expertise, among other factors. This section explores how to identify the data needs of civil society and the extent to which the current EITI Standard and other sources of data might meet those needs.

### 2.2.2 CONSULTING STAKEHOLDERS

Civil society needs to prioritise the key issues and challenges raised in the governance of extractive industries, and to identify the data needed to help address the main issues. The EITI Standard

(requirement 1.5 for developing work plans) helps in defining the key issues and national priorities. These will guide civil society and communities towards identifying which data they need to better understand and influence legislation, policies and systems in the extractives sector. Such issues should be identified through a process of meaningful consultation, involving a broad range of stakeholders in wider civil society and community-based organisations. Typically, the consultation should be multi-faceted, addressing all levels (local to national), since priorities may be different at each level. It can be carried out using several methods, including local community events, roadshows and surveys. This process is important as it allows civil society to reach a consensus on the main issues, and to identify the data needed to address them.

For example, communities in which extractive activities take place will have different priorities to those in other areas. They might need to know the duration of the extractive activities, the types of impacts they will be exposed to, how these impacts will be repaired, how they will benefit directly from the exploitation, and what contribution will the exploitation make towards improving their living conditions (see section 2.3, data access section). For example, in Ukraine, civil society actors used the EITI work plan to establish dialogue and counter tensions in a conflict-affected area.

### MULTI-STAKEHOLDER CONSULTATION IN UKRAINE

Ukraine is rich in various natural resources; however, internal mismanagement and external interference in the country's integrity result in the extractives sector contributing a relatively insignificant amount to the economy. In 2014, one year after Ukraine started implementing the EITI, armed conflict broke out in Donetsk and Lugansk regions, leading to the loss of government control over these resource-rich territories. As a means of obtaining information for the EITI report, a civil society group established dialogue

with companies and communities in the affected territories. They framed the EITI implementation objectives as strengthening the partnership between government, local self-government, companies and local communities to decrease tensions. Taking this approach encouraged the involvement of a broad range of civil society actors in the conflict-affected regions, and eight outreach events and public hearings were held during 2016 and 2017. See the EITI country report for Ukraine.

### 2.2.3 MAPPING EXISTING DATA

It is important for civil society to identify what extractives data is already publicly available, from both EITI and non-EITI sources. Awareness of such information will strengthen civil society's credibility and demonstrate that any requests for increased access to data are based on a sound understanding of existing information and disclosure processes.

Consultation and mapping will identify data gaps and weaknesses that could be addressed within or outside the EITI. Certain information needed by civil society may not be included in EITI reports, or may not be publicly available from other sources. In some cases, the required data may already be publicly available, but of poor quality (for example, the data may not be in an open format, or it may not be sufficiently disaggregated to answer priority concerns and questions).

Civil society may have agreed that the government should establish a public register of all companies' beneficial owners (beyond the extractives companies themselves). In this case, advocacy activities may need to be focused on policy processes outside the EITI, and may need to target institutions not involved in the EITI process. Relevant information can be found outside EITI reports, e.g. Open Ownership, Norwegian Petroleum and the Companies House register.

### 2.2.4 ADVOCATING FOR DATA

Once the data gaps and weaknesses have been identified, civil society can advocate for them to be addressed. This could involve developing an advocacy strategy, gathering evidence to show why the data is needed, producing policy briefs, or communicating with the public on these issues. In EITI countries, the national EITI multi-stakeholder group will be a key avenue for advocacy activities (see Chapter One). This group will negotiate and then decide on the reporting template to be used to meet EITI disclosure requirements. It is therefore important for civil society representatives in the group to ensure that the EITI reporting template reflects their constituency's data needs.

### 2.2.5 EITI DATA

Once national priorities have been determined and the priority challenges highlighted, civil society will be in a better position to understand what data to look for. One of the most useful disclosure mechanisms for the extractive industries is the EITI itself, with its standardised reporting framework. Determining which data is relevant to civil society in a particular country is crucial to assessing the usefulness of EITI reports and their relevance to the reforms being sought.

Civil society needs to know whether disclosures under the EITI Standard meet its demands. This means studying the EITI Standard carefully. This knowledge will help to define the campaign focus and prioritise the factors that should be influenced in the EITI reporting process. The 2016 EITI Standard covers The EITI Requirements, related to extractive data disclosure in EITI reporting, as follows (Requirement 1 is related to multi-stakeholder group oversight, and Requirements 7 and 8 to EITI outcomes and impact and to implementing countries' compliance and deadlines respectively).

#### EITI REQUIREMENT 2

Legal and institutional framework, including the allocation of contracts and licences

- 2.1 Legal framework and fiscal regime
- 2.2 License allocations
- 2.3 Register of licences
- 2.4 Contracts
- 2.5 Beneficial ownership
- 2.6 State participation

#### EITI REQUIREMENT 3

Exploration and production

- 3.1 Exploration
- 3.2 Production
- 3.3 Exports

#### EITI REQUIREMENT 4

Revenue collection

- 4.1 Comprehensive disclosure of taxes and revenues
- 4.2 Sale of the state's share of production or other revenues collected in kind
- 4.3 Infrastructure provisions and barter arrangements
- 4.4 Transportation revenues
- 4.5 Transactions related to state-owned enterprises
- 4.6 Sub-national payments
- 4.7 Level of disaggregation
- 4.8 Data timeliness
- 4.9 Data quality and assurance

#### EITI REQUIREMENT 5

Revenue allocations

- 5.1 Distribution of extractives industry revenues
- 5.2 Sub-national transfers
- 5.3 Revenue management and expenditures

#### EITI REQUIREMENT 6

Social and economic spending

- 6.1 Social expenditures by extractive companies
- 6.2 Quasi-fiscal expenditures
- 6.3 The contribution of the extractives sector to the economy.

EITI reports also include contextual information designed to help make sense of the data disclosed. All information required by the EITI Standard is supposed to be published annually, under the oversight of the multi-stakeholder group. However, the EITI allows a maximum of two years for the information to be published (e.g. a 2016 report can be published in 2018). Because many countries have a time lag, obtaining current data is one of the main challenges facing civil society when it comes to analysing the information published.

Through an approach known as 'systematic disclosures' or 'mainstreaming', the EITI Standard also enables implementing countries to disclose the required information through routine government and corporate reporting, information systems in government entities, company websites and annual reports. The mainstreaming approach (or systematic disclosure) is not meant to change the nature of the information publicly available, but only the way it is published and the channels of publication. This could ensure that the data disclosed is more timely (if the governments' and companies' systems are efficient).

### 2.2.6 BEYOND EITI DATA

Some data may not be required by the EITI Standard, but may be essential for affected communities to promote transparency and accountability. Through the multi-stakeholder group, civil society may use encouraged requirements, such as beneficial ownership, contract transparency, social payments and revenue distribution, to receive the data they need. Other issues not yet covered in the EITI Standard are environmental transparency, human rights violations, gender issues, sustainability, local concerns about benefit-sharing, environmental and social conflicts, climate risk disclosures, indigenous peoples' rights, anti-corruption measures, artisanal and small-scale mining, and conflict minerals.

Alternative data sources are therefore useful and should be generated to provide a comparison with official findings from government and industry. In Peru, for example, a civil society organisation provided supplementary environmental information as a means to demonstrate the need for greater transparency on environmental and social payments. See also section 2.3 on 'accessing the data' for more guidance on where to access data from different sources.

## SUPPLEMENTARY ENVIRONMENTAL INFORMATION IN PERU

The EITI initiative in Peru has attracted interest from different parts of civil society over the last five years. There is a growing demand for greater transparency in tax information and in sharing socio-environmental data. Press releases, opinion articles and statements have been released, and other advocacy actions taken, to demand the incorporation of such information in EITI reports. The EITI 2016 Global Conference in Lima was a key event where civil society actors were able to highlight the need for inclusion of socio-environmental information through the local press, work meetings and summit communications. The summit led to the creation of a broad civil society platform. Through three national and regional workshops, the platform developed a shadow document containing the required socio-environmental information, and the stakeholders met every two months to refine the proposal. In 2017, the socio-environmental information was included within the contextual part of the EITI report. This was accomplished by civil society representatives in multi-stakeholder group meetings and in conversations with company representatives and other entities. Civil society itself added the contextual information about the environment and social payments, requested information and included the relevant data.

As a result, the most recent EITI report incorporates environmental information, with contributions from the civil society collective. Peruvian civil society also produces a shadow report that gives even more environmental information and can serve as a model for future EITI reports. This shadow report (available in Spanish) is continually evolving and serves as a vehicle for disseminating other types of extractives industry information.

## 2.2.7 RECOMMENDATIONS FOR CIVIL SOCIETY ON TYPES OF DATA

- Carry out an inclusive consultation process at all levels, to identify citizens' concerns and data needs.
- Map out existing publicly available information on extractives (to arrive at the discussion table prepared).
- Use the EITI as an opportunity to address information gaps in the framework of an official government initiative.
- Study carefully the EITI Standard to see what data can be extracted from EITI reporting.
- Consider processes happening outside the EITI that may provide useful data.

## 2.3 WHERE CAN CIVIL SOCIETY ACCESS THE DATA?

### 2.3.1 INTRODUCTION

Civil society actors need to know where and how to access the information they might need, which may originate from various sources in the extractive industries value chain (e.g. contracts and licences, exploration and production, revenue collection and allocation, social and economic spending) and beyond (e.g. anti-corruption and environmental information).

This section provides guidance on data sources, along with an overview of the typical challenges associated with accessing extractive industry data, and practical examples of how these have been overcome.

### 2.3.2 DATA SOURCES

Data is produced and may be kept in different forms and places (hard copies in books and reports, electronic sources such as websites). Data sources include:

- governmental bodies and administrative services (ministries, national and local executive offices, statistical agencies, stock exchanges)
- company reports

- international initiatives (such as EITI, Open Government Partnership, the United Nations Convention against Corruption or UNCAC) that set out a country's extractives governance framework
- donors and international institutions
- universities
- non-governmental organisations (national or international), churches and research institutes
- the media (traditional and digital)
- other online sources.

## INFORMATION SOURCES

TYPE OF INFORMATION	WHERE TO FIND IT	EXAMPLES
EITI	EITI website Countries' EITI websites	EITI EITI Kazakhstan EITI Nigeria
Contracts	Contracts EITI Other initiatives Non-governmental organisations	Open Contracting Partnership Resource Contracts directory of petroleum and mineral contracts PWYP Contract Transparency Mexico contracts (Spanish) Resource Contracts Guinea OpenOil
Payments to governments	EITI country reports Open source data on oil, gas and mining payments Yearly audit reports of governments and companies	Overview of EITI reports Finding the Missing Millions - a guide to using extractive companies' payments-to-governments reports ResourceProjects.org Canadian companies' payments to governments reports PWYP UK Guide to accessing and using UK-based extractives company reports
Beneficial ownership	Registers where available	Open Ownership website Ministry of Justice of Ukraine website (Ukrainian) Companies House UK corporate register EITI Democratic Republic of Congo
Licences	EITI reports Cadastral offices Ministry of mines websites	EITI Guidance note 4 on license allocations Zambia Mining Cadastre Portal
Production data	EITI country reports Government reports	EITI country pages Ministry of Petroleum or Natural Resources, State Statistics Services in countries as applicable
Revenue collection	EITI country reports Government reports	EITI implementation entity Ministry of Petroleum or Natural Resources in countries as applicable
State-owned enterprises (SOE)	Government websites SOE websites	Nigerian National Petroleum Corporation Petrobras 2018-2022 Business & Management Plan Government portal on SOEs in Kyrgyz Republic (Russian)
Sub-national revenues	State budget Local government/council budget	Ministries in charge of finances and budget National Assembly Chambers and Courts of Accounts
Social impact	Social and environmental impact studies	Companies Ministries in charge of mining sector
Revenue management	Activities reports	Ministries in charge of finances and budget National Assembly Company websites
Anti-corruption	UNCAC Transparency International's Corruption Perception Index Anti-Corruption Pledge Tracker NRGI's Resource Governance Index	United Nations Convention against Corruption Transparency International Anti-corruption pledge tracker Resource Governance Index

### 2.3.3 THE RIGHT TO INFORMATION

Access to different data sources varies across countries. While the right to access public information is a fundamental human right contained in the right to freedom of thought and expression, it can still be difficult to gain access to actual data stores. Moreover, even when data is made available by public agencies, it is often difficult for citizens to verify the accuracy of such data.

Over the last decade, some countries have considerably improved their laws about access to information, helping citizens to access important data on extractive industries. For example, information about contracts signed between governments and companies, and royalties paid, is generally made public. However, access in countries without such laws – such as the Democratic Republic of Congo, Dominican Republic, Guatemala, Honduras, Myanmar and Nicaragua – remains extremely limited and is coupled with confidentiality issues. The Centre for Law and Democracy Right to Information Rating analyses the quality of the world's access to information laws.

Where there are limitations to accessing information, civil society has issued lawsuits or advocated for access to extractives contracts with many successes. Examples include the Chad–Cameroon pipeline contract with Exxonmobil, Gecamines Project in DR Congo and Kinross-Forrest Limited contract, also in DR Congo. However, civil society continues to face challenges in obtaining information and is sometimes denounced and prosecuted for its work as a watchdog in the extractives sector. In either case, it is important to note that information on the extractives sector is not sourced from a single public authority. As a starting point, it is essential to monitor the work of the government entities in charge of the exploration and extraction of natural resources in the country. In most countries, sources of extractives data include ministries and authorities

responsible for the economy, tax, investment, the stock exchange, the environment and local governance.

Public hearings or workshops related to the extractives sector, organised by governments or companies to share information about extractive investments, planning and projects, are additional sources of data. Civil society should also use less official ways of accessing information, such as through public meetings and personal contacts. These often offer first-hand knowledge from verbal sources. Besides allowing civil society to tap into informal information, which is often highly relevant, verbal communication builds good rapport with key influencers and decision-makers.

### 2.3.4 DISCLOSURE OF INFORMATION

Mandatory disclosure rules are becoming a substantial source of extractives-related data (e.g. European Union directives or the Extractive Sector Transparency Measures Act). There are further voluntary disclosure mechanisms, such as EITI or Open Government Partnership, that can supply civil society with data. International organisations and academies have collaborated to create databases and portals such as OpenOil, the Natural Resource Governance Institute (NRGI) and ResourceContracts.org (Columbia University). These host more than 1,000 documents relating to extractive industries contracts. There are also international financial organisations, such as development banks, which have adopted standards of transparency for the projects they fund. These mechanisms and institutions play a guiding role and create additional pressure on governments and companies to make more information and data publicly accessible.

The case studies below show how these disclosure frameworks or international standards can promote access to information for civil society.

### CONTRACT DISCLOSURE FOR THE CHAD–CAMEROON PIPELINE

In 1998, a mega-pipeline project linking Chad and Cameroon obtained funding from the World Bank. Civil society opposed the project on the basis that its benefits would reinforce the Chad dictatorship. A campaign for income transparency through international and national civil society oversight contributed to the disclosure of the contract between the state and investors. When Chadian civil society obtained the contracts, it was able to analyse the restrictions of the confidentiality clauses that affected the right to access to public information, and how Chad had negotiated the contracts to the detriment of the national interest. The case study, 'Contracts Confidential', has been written up in detail by the Revenue Watch Institute.

### PUBLICATION OF GUINEAN MINING CONTRACTS ONLINE

Guinea was one of the first countries to join EITI. In 2013, the Guinea government created an online database designed to keep all the country's mining contracts in one portal. The tool was developed with the Natural Resource Governance Institute (NRGI) and aimed to increase access to key documents hosted on a number of sites or held offline. Efforts were made to ensure comprehensiveness of disclosures and, at the same time, to ensure all stakeholders can understand and analyse such contracts. The database was updated in 2017 to improve its accuracy and make it more user-friendly. The portal categorises documents to make them easy to search, includes links to several guides on reading and understanding mining contracts, and contains several other useful resources. The latest contracts were uploaded to the database in January 2018. Based on this experience and led by NRGI, civil society is now asking other governments, such as Nigeria, to follow their lead. Further information is available via Resource Contracts and the NRGI website.

### TOWARDS INCREASED TRANSPARENCY IN MONGOLIA

In Mongolia, civil society is working to increase transparency in artisanal and small-scale mining. The nature of such activities makes it hard to identify their location and size in most countries. In Mongolia, EITI reporting triggered public debate and led to amendment of the regulation on formalising artisanal mining activities. Since 2017, local governments have been mandated to report on such operations by administrative districts. The Mongolia EITI report disclosed artisanal and small-scale mining activities reported by 10 sub-national units, including location, commodity, number of miners and partnerships. These are disclosed in detail, supplementing the regular reports submitted by the sub-national units to national government. See Mongolia EITI report for 2016.

### 2.3.5 DATA ACCESS CHALLENGES

Although various channels and initiatives promote information disclosure, civil society has to overcome several obstacles when accessing information. The key challenges include the following.

#### WILLINGNESS TO DISCLOSE

Despite recent improvements by many countries, one of the main obstacles to data accessibility remains the absence of political will. Most government entities and private companies maintain a robust culture of secrecy and opacity. There have been instances where companies may claim to support transparency (and particularly the EITI framework), while simultaneously regularly trying to undermine transparency mechanisms. Restrictions and reservations often exist in access to information about planning, concessions and environmental assessments for extractive projects. While data is related to costs and revenues, a portion of this data can remain unavailable to civil society, with reasons ranging from commercially sensitive information, confidentiality clauses in laws, and fees charged to users to access data portals. Legal and regulatory framework

Although some countries have access to information laws, these are often challenging to implement. Where such laws exist and are enforced, civil society has been able to obtain data, although this often involves bureaucratic hurdles, payment of fees, or simple refusal by government entities to disclose, despite the law. In most countries, access to information requests involve lengthy and cumbersome administrative processes. When requests are denied, civil society may need to incur large expenses to take the case to the courts. Access to information laws can also lack detailed provisions and mechanisms for their implementation and enforcement. Public officials and the administrative culture often have internalised restrictions on access to information, and regard information as restricted, confidential or secret, without proper foundation. This means there may be significant restrictions to accessing information, even in countries where an enabling legal framework exists.

### **CAPACITIES AND SYSTEMS INEFFICIENCIES**

Those generating the data may have insufficient ability or knowledge to provide accurate information. For example, the web portals of ministries of energy, mining or the environment, environmental enforcement agencies and sub-national governments may not contain detailed information or incorporate data about all affected regions, especially remote areas. Data related to the quality of essential natural resources, such as water, air and land affected by extractives projects, is rarely disclosed publicly. Information may also be presented in only one language, which can present a barrier to rural or indigenous populations or ethnic minorities.

The format of the information and data disclosed The emergent international norm is to present data in an open format so it can be accessed and used easily by interested parties. It is important that civil society promotes machine-readable open data formats and demands information to be presented so that it can be printed for distribution to local representatives who lack internet access.

### **LOCAL COMMUNITIES**

Data on issues such as compensation, reports, audits, penalties for breaching rules and compliance with socio-environmental standards is often inaccessible to civil society. This is especially true for local communities located far from the national capitals where the information is made public and officially accessible. The lack of accessibility and systematisation of information by public entities, along with the specific challenges affecting local communities (such as electricity cuts or no internet connection), limit access to data or the data most relevant for people affected by extraction. This prevents them from participating in dialogue and being consulted before projects begin; they are also unable to negotiate with companies or monitor environmental processes.

### **INSTITUTIONAL, ORGANISATIONAL AND FINANCIAL CAPACITIES OF CIVIL SOCIETY**

Inadequate knowledge about data availability remains a challenge for civil society. A substantial amount of data is being produced by many different sources, but civil society actors may not be aware of it. It is important that people know about the different tools used to access data, such as the portals developed by the Natural Resources Governance Institute, OpenOil, OpenOwnership and other initiatives. Capacity building for data access may also be required. Data quality and reliability

Alongside the question of access to data are the separate issues of data quality and reliability. The two-year EITI timeframe for the release of reports often means that data is out of date, especially when reports are published late. Mainstreaming (releasing data through other portals) can help to make data available on a more regular basis, although mainstreaming means that the data format might not be standardised or might be difficult to read. The key issue of data reliability means that civil society must continuously monitor and question the data itself.

Indonesia and the Philippines provide examples of local action to improve data timeliness and accessibility.

### **IMPROVING DATA TIMELINESS IN INDONESIA**

Publish What You Pay (PWYP) Indonesia waited several years for access to the latest EITI report, but by the time the report was released, the information was out of date or of limited relevance to civil society campaigns. When the report was made available, PWYP Indonesia found that it failed to fully meet the EITI Standard. The group used this opportunity to highlight the gaps and ask that future reports were more timely and comprehensive. See the report for more information.

### **OPEN-FORMAT DATA IN THE PHILIPPINES**

One of the objectives of EITI in the Philippines is to improve data availability and public understanding of natural resource management. Bantay Kita-PWYP Philippines (BK), which represents civil society in the country's EITI multi-stakeholder group, argues that it is insufficient to make data available; it should also be publicly accessible. For example, data on subjects such as permit holders and concession boundaries from the Mines and Geosciences Bureau (the agency regulating the mining sector) was published in pdf format, and therefore could not be readily used. BK pushed for this data to be published in open data formats such as csv files, as well as demanding public access to contracts to allow for greater scrutiny and informed debate. See the Open Data Policy report for more.

## **2.3.6 RECOMMENDATIONS FOR CIVIL SOCIETY TO IMPROVE DATA ACCESSIBILITY**

- Make civil society aware of all existing sources of extractives data, including mandatory and voluntary disclosure mechanisms.
- Use access to information laws in each country.
- Keep in mind the range of challenges that civil society will face in trying to access reliable data.

## **2.4 HOW CAN CIVIL SOCIETY INFLUENCE DATA COLLECTION?**

### **2.4.1 INTRODUCTION**

Civil society has an important role to play in supporting efficient, comprehensive and reliable data collection. As well as helping define what information and data should be disclosed in reports or through government systems, civil society needs to remain involved in all stages of the EITI data collection process. This helps ensure that the data required by civil society is being collected. As key players in the multi-stakeholder group, civil society representatives should be able to influence the data collection process and help ensure the credibility and sustainability of EITI reporting.

This section outlines the entry points for civil society to influence data collection during the EITI process, and discusses the changes that can take place with systematic disclosures (mainstreaming). It also highlights how the EITI validation process can be a useful tool that civil society can use to assess EITI data collection, and points out some of the main challenges facing civil society in data collection.

### **2.4.2 ENTRY POINTS IN THE EITI REPORTING CYCLE**

Civil society plays a key role in determining what data EITI reports will cover. The EITI reporting cycle provides several opportunities for civil society

engagement with the multi-stakeholder group. This can influence the data collection processes being led by the group itself, the EITI national secretariat, the independent administrator or the EITI International Secretariat during validation to help to ensure that civil society's perspectives are reflected fairly in these processes.

### EITI REPORTING OBJECTIVES AND WORK PLAN

By consulting and engaging with members of its wider constituency, civil society can influence the EITI reporting objectives and work plan through its role in the multi-stakeholder group. National and sub-national priorities that need addressing through the EITI process are defined at this stage. Civil society can encourage the multi-stakeholder group to participate in pilots to expand the scope of the data disclosed (to cover such issues as beneficial ownership or commodity trading). Civil society should also contribute to defining the terms of reference of the multi-stakeholder group's preliminary or updated scoping exercise, since this identifies what information is available and determines what needs to be collected. From the preliminary scoping study, the multi-stakeholder group will decide on the scope of the EITI report, and this is reflected in the terms of reference governing the actions of the independent administrator.

### TERMS OF REFERENCE DISCUSSIONS

Civil society representatives need to arrive at the negotiation table well prepared for the terms of reference discussions. Ideally, they should arm themselves with a clear negotiation strategy and have already set priorities for the data they would like to be collected for the EITI report. This is also the time when civil society can influence the definition of the key elements of the EITI report, such as the materiality threshold. In some countries (e.g. Mongolia and Myanmar), civil society has successfully influenced the terms of reference. In Latin America, civil society organisations have succeeded in ensuring environmental issues are covered in several EITI reports. See EITI Guidance note 8 for further information on the EITI reporting process.

The case studies illustrate how civil society in Mexico and Suriname has influenced the inclusion of socio-environmental information in EITI reports; while in Nigeria, civil society is recognised as an integral part of the implementation of EITI.

### INFLUENCING DATA INCLUSION IN MEXICO AND SURINAME

Mexico and Suriname both became members of EITI in 2017. The two countries have long had broad civil society platforms, and both have demanded the inclusion of socio-environmental information in EITI reports. Platforms in both countries include a broad base of local and indigenous organisations, so giving the civil society representatives in the multi-stakeholder group strong legitimacy. They first determined which socio-environmental data could be of value, then succeeded in getting the requested environmental data included in the first EITI reports. Although the EITI reports do not yet include any reconciled data related to socio-environmental expenditures, the important outcome is that the multi-stakeholder groups agree that future reports and group discussions should include data on social and environmental issues. View the work plan for Mexico (in Spanish) and Suriname (English).

### NIGERIA RECOGNISES CIVIL SOCIETY AS INTEGRAL TO EITI IMPLEMENTATION

Nigeria has been a member of EITI since 2004. Civil society has always engaged closely with the initiative and contributed to debates on EITI direction. Citizen engagement was formalised in 2006, with the signing of a Memorandum of Understanding (MoU) on civil society engagement with the Nigerian EITI. The MoU is renewed each time a new multi-stakeholder group is appointed. One of the first achievements influenced by civil society was the development of legislation to support EITI implementation. This subsequently became law under the Nigerian EITI Act 2007, and was the first EITI law in the world. The legislation goes beyond basic EITI requirements to include disclosure of

expenditures. The EITI in Nigeria conducts audits of the sector to cover physical aspects (volumes and products), financial aspects (cost and revenues) – the main EITI requirement – and process (interaction between covered entities or all agencies involved in the data collection process, as established by law). The civil society steering committee includes representatives from non-governmental organisations, academia, professional organisations, women's groups, youth groups, trade unions, disability groups and local communities. Civil society has also taken part in working groups concerned with guiding the national EITI validation process.

In addition to being recognised as an integral part of EITI implementation, civil society organisations are involved in designing reporting templates and ensuring these cover all the components of data capture. The Nigeria EITI website provides further information on continued civil society engagement. See also a paper on the role of civil society in EITI in Nigeria and a report on the influence of civil society on the extractives sector in Nigeria.

### REPORTING TEMPLATE DESIGN WORKSHOPS

It is important that civil society representatives attend reporting template design workshops. This is a critical stage in the reporting cycle, since anything not captured by this template will not get reported. Most independent administrators argue that the template will cover only what is described in their terms of reference. When the inception report from the independent administrator is produced, civil society actors should review it and add their comments to ensure that the agreed data has been collected.

The data collection process is led by the independent administrator, line ministry, the

EITI national secretariat, or all of them together. During the process, civil society should maintain pressure to ensure the expected data is provided by the government and business reporting entities. Civil society actors should follow up closely with the national secretariat to identify who has yet to report. Regular phone calls can be useful to maintain this pressure. In some instances, civil society has published the names of companies failing to fill in the reporting templates, in order to put public pressure on them (e.g. in the Philippines, Indonesia and Ukraine). In other contexts (e.g. Kazakhstan), civil society has called on the government to chase companies that fail to report. Despite such efforts, many EITI reports still have some gaps. In these cases, civil society can try to submit its own data and research findings for use in EITI reports (see section 2.4.4 below on validation).

### DOCUMENT REVIEW

When a draft EITI report is ready, civil society has a role to play in ensuring the expected information and data have been collected. Civil society representatives on the multi-stakeholder group should hold consultations with the wider civil society constituency to identify any gaps and concerns. The report findings need to be viewed alongside the template to ensure that all the required information has been collected by the independent administrator. Workshops for civil society representatives – ranging from multi-stakeholder group members to local community representatives – are often the best way to undertake a collective review of such documents. The same process should be carried out with the final EITI report. In particular, civil society should pay special attention to recommendations related to data disclosure gaps.

Finally, civil society should advocate for assurance mechanisms for EITI data (or other sources of data on extractives coming from government or companies). In Guinea, for example, the 'Cour des Comptes' certifies the EITI data submitted by government entities (report available in French).

### 2.4.3 MAINSTREAMING OPPORTUNITIES AND CHALLENGES

The terms 'mainstreaming', 'integrated reporting' and 'systematic disclosure' are used interchangeably for the routine and publicly available reporting by governments and companies on EITI requirements. The idea of using existing reporting systems stems from the fact that information in EITI reports is often outdated and costly to gather, even though governments and extractives companies may be already providing information through public financial reporting, annual reports, information portals and other open data and freedom of information initiatives. These sources provide opportunities for citizens to access, collect and analyse regularly updated information. However, they are also associated with specific challenges that civil society must learn to address.

Mainstreaming can be approached from within and beyond the scope of EITI. Each perspective has implications in terms of data collection and analysis. In 2016, the EITI Board approved the Mainstreaming Action Plan. The EITI International Secretariat has recognised the mainstreaming efforts of several countries, such as Kazakhstan, Mexico, Mongolia, Norway, Timor Leste and the Philippines, and is now aiming to accelerate the pace in all implementing countries (see EITI Agreed upon procedure for mainstreamed disclosures)

#### MAINSTREAMING IN KAZAKHSTAN, NORWAY AND TIMOR LESTE

In Kazakhstan, the government requested that companies file their EITI reports as part of other mandatory reporting for subsoil licence holders, using an existing online platform run by the Ministry of Energy. The system is being further improved to reconcile data automatically. This system enabled Kazakhstan to become the first country to publish a 2014 EITI report.

In Norway, the government maintains a website called Norwegian Petroleum, which offers "everything you need to know about Norwegian petroleum activities". The portal provides up-to-date aggregate revenue data, and detailed information on licensing and other aspects of regulatory oversight (see Norwegian Petroleum).

In Timor Leste, the government launched the Timor-Leste Transparency Model in 2011. This promotes transparency in government decision-making, budgeting, petroleum fund management, revenues and expenditures. Much of this information has been made available through the Timor-Leste Transparency Portal. Government agencies make EITI data available on their websites on a routine basis. Autoridade Nacional do Petróleo e Minerais (ANPM), for example, publishes all relevant laws, regulations and production sharing contracts, as well as production and revenue data on its website on a quarterly basis. Financial data is also available from the Petroleum Fund website, the Transparency Portal and Timor GAP website. In 2015, the government committed to further entrenching and mainstreaming transparency in government systems.

It is important to emphasise that the mainstreaming procedure does not alter the EITI disclosure requirements. Mainstreamed implementation would require the same information, with the same amount of detail and assurance, as reconciled EITI reporting. It also includes several safeguards to ensure that systematically disclosed information is complete, time bound, available and reliable. One potential advantage of mainstreaming is that it can reduce the focus on data collection and reconciliation, allowing more time and resources for analysing data and responding to emerging governance challenges.

The EITI process for moving to mainstreamed implementation includes the following steps.

- 1. Application:** An application to the EITI Board, approved by the multi-stakeholder group, seeking approval of the proposed work plan.
- 2. Approval:** Board approval of the suggested approach.
- 3. Implementation and Reporting:** In accordance with the work plan, including annual EITI reports that collate the requisite data and provide links to further information.
- 4. Review:** Annual reviews by the multi-stakeholder group of the process, as per Requirement 7 of the EITI Standard.

In each of these stages, civil society must be mindful of the consequences (both opportunities and challenges) of a decision. Civil society should agree on the terms of the application for mainstreaming.

If a country goes beyond EITI requirements and implements an open data policy, civil society may encounter less standardised procedures and sources of information. This means there will be a need to understand how to access and match multiple databases and reports. It represents a shift in responsibility onto civil society to make sure the data is trustworthy and can be reconciled, and to carry out the necessary analyses.

Challenges affecting the data collection process when mainstreaming or implementing an open data policy include the following.

- **Reliability:** Civil society has to trust that government and company data is reliable.
- **Capacity:** Civil society often has limited capacity to collate the diverse sources of information, and should develop the skills needed to assess information from multiple sources, which can be hard to find and available in different formats.
- **Accessibility:** Civil society may face legal and technical obstacles to accessing information, and these make systematic disclosure challenging. Data collection will also depend on the availability of internet access.

#### WHAT MAINSTREAMING WOULD MEAN FOR CIVIL SOCIETY IN THE EITI MULTI-STAKEHOLDER GROUP

The concept of mainstreaming is relatively new within the context of EITI. It offers some significant opportunities for civil society, such as the timeliness of data disclosures. However, civil society needs to carefully assess the risks and challenges associated with mainstreaming different elements of the EITI process.

A transition to mainstreaming could offer opportunities to the multi-stakeholder group for better monitoring of the extractives sector, however it implies a different role for civil society from that played in 'conventional' EITI reporting. The procedures agreed by the EITI Board suggest that the multi-stakeholder group will continue to play a central role in the systematic disclosures of data required by EITI. Although the group's mandate varies across countries, it is the main decision-making body responsible for setting the objectives for EITI implementation. Civil society in many countries recognises that the group provides real access to decision-makers and equal participation in the tripartite multi-stakeholder process (alongside government and business).

One contentious issue is the extent to which mainstreaming can incorporate EITI multi-stakeholder groups into existing governance bodies, such as national councils and working groups, where government, companies and civil society have space to engage on natural resource governance issues. Civil society should pay close attention to identifying the role and responsibilities of the multi-stakeholder groups, and the risks and opportunities of a mainstreamed environment. They should then assess the extent to which the functions of the multi-stakeholder group should be mainstreamed. For instance, in Ukraine, when EITI is mainstreamed, the multi-stakeholder group plans to monitor impact and initiate policy reforms. It is important to note that, in some countries, mainstreaming could be advantageous, but in the others it could jeopardise civil society's participation in the process.



## 2.4.4 VALIDATION PROCESS

The EITI validation is a process that occurs every three years and provides an opportunity for civil society to feed into the assessment of the implementation of EITI in its country, and then influence over the long term the data disclosed through the EITI process. Validation ensures that the quality of EITI and its implementation is maintained. The process also provides an opportunity for multi-stakeholder dialogue and reflection. During validation, civil society should actively participate in the stakeholder consultation and process of data gathering by the EITI International Secretariat.

The validation process is divided into four phases.

1. Preparation for validation. Prior to validation, the multi-stakeholder group is encouraged to undertake a self-assessment of adherence to the EITI Standard. Stakeholders can prepare any other documentation they consider relevant. Civil society can take a leading role in assessing the EITI reporting process and identifying gaps. A guidance note on preparing for validation is available here.
2. Initial data collection and stakeholder consultation undertaken by the EITI International Secretariat. The International Secretariat reviews the relevant documentation, visits the country and consults stakeholders. Based on these consultations, the International Secretariat prepares an initial assessment report. The initial assessment is then shared with the multi-stakeholder group for feedback.
3. Independent validation. The Validator reviews the Secretariat's initial assessment and prepares a validation report. The multi-stakeholder group is invited to comment on the validation report.
4. Board review. The validation committee, consisting of a number of International Board members, reviews the initial assessment, validation report and associated multi-stakeholder group comments. The validation

committee makes a recommendation to the EITI Board on the country's compliance with the EITI Requirements and, where applicable, any corrective actions that are required. The EITI Board makes the final determination of the country's overall progress.

One very important way for civil society to participate in the data collection process is to take part in the public and extended consultation carried out by the EITI International Secretariat. While initial assessment and stakeholder consultations do not necessarily anticipate any direct contact between civil society and the Validator, citizens can influence the process through dialogue with the EITI International Secretariat, involving both formal and informal comments.

As the validation is limited in time, the multi-stakeholder group can become a filter for civil society comments. Various means, such as civil society self-assessment exercises, should be used by civil society representatives in the multi-stakeholder group to collect comments from the wider constituency in order to strengthen the legitimacy and the weight of what will be relayed ultimately as the comments of civil society. These comments are submitted through formal letters to the multi-stakeholder group, EITI Secretariat, validation committee and civil society representatives on the International Board. With favourable publicity, such letters can achieve the desired impact, which is to improve the quality and fairness of the assessment.

To improve, correct and enrich the initial assessment or the validation report, it is important that representatives in the multi-stakeholder group remain in constant contact with wider civil society to collect all possible data. For example, the PWYP coalition in Cote d'Ivoire prepared its own assessment report in preparation for validation in 2017.

## 2.4.5 DATA COLLECTION CHALLENGES

Civil society must overcome several challenges while collecting data for EITI reports, validation and other EITI data-related processes. The most significant is that ultimately, civil society organisations are not among the reporting entities defined in the EITI framework. So, while they can influence and monitor the content and the data collection process in some ways, they are not actually submitting the data that will be reconciled by the independent administrator. Furthermore, as part of endorsement by the multi-stakeholder group, civil society has a say in but does not control the sign off of the EITI reports and the validation reports. There are several additional challenges associated with data collection, as listed below.

### LACK OF TIME AND FUNDING TO SUPPORT EXTENSIVE DATA COLLECTION

The reporting entities and the independent administrator are usually affected by time constraints due to pressure to publish the report. This can force some difficult decisions, such as the need to cut down on the amount of data due to be collected. Such a decision jeopardises the quality and the completeness of the final report. More often than not, data collection processes are not sufficiently extensive due to funding limitations. Civil society's role is to demand, in the multi-stakeholder group and beyond, that the data collection process starts as early as possible, is efficient and remains on schedule, and has sufficient funding.

### LACK OF TIME TO REVIEW INFORMATION AND DATA COLLECTED

Civil society representatives in national EITI multi-stakeholder groups are sometimes included on paper in the process of reviewing and commenting on EITI reports, but are sent reports at very short notice, or given very tight deadlines within which to comment. Stakeholder

meetings are sometimes organised with little notice and may require travel to the national capital, something that may be too difficult and costly for civil society representatives to organise at the last minute. As a result, civil society actors may be unable to check the data. Subsequently, the quality or the format of the report may be limited and fail to reflect the views of civil society, with the final version not comprehensive or easy to use. Civil society needs to ensure an agreed process that includes realistic timelines for all stakeholders, to allow them to properly review reports and data.

### LACK OF CAPACITY OF CIVIL SOCIETY TO ENGAGE IN THE DATA COLLECTION PROCESS

Civil society may lack the skills or expertise required to understand the location of data collection entry points or the details of the information they are reviewing. The opaqueness of the extractive industries can hinder civil society's capacity to understand what the data means contextually, so civil society representatives do not always know what data they really need. In response, civil society organisations should build their capacity in understanding data sources and meaning, mobilising support from other organisations or experts when needed.

### LACK OF ACCOUNTABILITY AND COHESION WITHIN CIVIL SOCIETY

This has sometimes hindered collaborative work and diverted attention. Some civil society representatives do not fulfil their mandate to represent citizens and ensure their views are reflected in the EITI data collection process. Civil society actors therefore need to ensure cohesion and consultation around questions related to data collection. Failure to create opportunities for the participation of the broader civil society groups, communities and citizens in the data collection process means that opportunities to strengthen the legitimacy of the process may be lost.

## 2.4.6 RECOMMENDATIONS FOR CIVIL SOCIETY IN DATA COLLECTION

- Have a comprehensive, informed and structured input to the terms of reference for the EITI report, especially the definition of materiality. Civil society should aim to influence the terms of reference because these will determine the data collection process.
- Push the multi-stakeholder group to run pilots, such as those for collecting data on issues like beneficial ownership and commodity trading.
- Build civil society capacities for reporting template design and review of data collected.
- Maintain pressure and oversight throughout the whole data collection process, by engaging with governments and companies to ensure timely, comprehensive and reliable data collection; also ensure the data collection process is properly funded, starts on time and remains on schedule, while allowing sufficient time for review
- Be ready to use a name-and-shame approach, in collaboration with the media, when entities do not complete their reporting templates.
- Carry out a collective review of draft and final EITI reports, to ensure all relevant data has been collected.
- Ensure proper assurance mechanisms for data are put in place.
- Consider generating its own data through research and shadow reports as an input to data collection.

### MAINSTREAMING:

- When considering the adoption of mainstreaming in the multi-stakeholder group, think carefully about the required appearance and content of the final EITI report and the risks and opportunities in relation to both reliable, accessible information disclosure and civil society participation.

- Provide input and influence the process during all phases outlined in the agreed procedure for mainstreaming. In particular, participate in developing the terms of reference for the mainstreaming feasibility study, and review the quality of the study.
- Ensure, when agreeing the work plan, that civil society organisations have the skills they need to oversee systematic disclosure and analysis of the data. Civil society needs to build its own technical capacity to use multiple databases. This can be included and budgeted for in the multi-stakeholder group annual work plan.
- Undertake regular checks on systematically-disclosed data.
- Use and build on the EITI open data policy, beyond the EITI framework, which should help to access government and company data.

### VALIDATION

- Be aware of the validation deadline ahead of its commencement.
- Contribute actively to the extended consultation through the EITI International Secretariat during validation, and reach out to the validation committee or civil society members at the International Board if necessary.
- Carry out wider consultation among civil society prior to and during consultations and validation report reviews, to ensure that all feedback is captured and processed.

## 2.5 HOW CAN CIVIL SOCIETY INFLUENCE DATA ANALYSIS?

### 2.5.1 INTRODUCTION

Since EITI reports and data are means and not ends in themselves, civil society needs to learn how to use these means to achieve the desired goal of transparency and accountability in the extractives sector. A lot of time and effort are taken up with lobbying governments and companies to disclose information. Civil society

has a responsibility to ensure this information is reviewed, analysed and used properly. If the data ends up 'on the shelf' in unread reports, civil society risks losing credibility.

Rigorous analysis of extractives data will strengthen civil society's ability to advocate for social change. It will improve understanding of key priorities and challenges in the extractives sector, and help answer important questions. Having carried out its own analysis, civil society will arrive at the negotiation table well prepared, with strong evidence to support requests and advocacy points.

However, analysing data is not always a simple task. It often requires technical skills and knowledge, time and commitment. Additional challenges related to data analysis include the timeliness and quality of the data. These challenges should be borne in mind when managing expectations about what data analysis can achieve. However, much can be accomplished, even with limited capacity and experience in using extractives data, and data should not be seen to be intimidating.

### 2.5.2 LEVELS OF DATA ANALYSIS

Data analysis is intended to provide information on what is happening in the extractives sector, and to inform advocacy for improvements and reform. The process may also identify what further information is required to provide a clear picture of extractives governance.

While data analysis may prove difficult for some civil society members, it is important to recognise that different levels of analysis can be carried out. Time, commitment and willingness will prove fruitful, even with limited technical skills. For example, in EITI reports it is quite straightforward to find the following information:

- high-level data on the contribution of the extractives sector to the national economy or employment figures, which can be compared over time

- which companies have not declared any taxes paid or have reported unusually high taxes
- how much a specific province received through the national revenue-sharing formula, and comparisons of production and taxes received from projects operated in the province
- beneficial owners' names (if published), to help understand which individuals benefit the most from the natural resources.

Even at this level, data will prove useful for local- and national-level advocacy. However, more complex levels of analysis may be needed. If civil society decides to engage in a more complicated analysis of the published data, it may require more time, resources and technical support. Civil society must prepare by identifying the skills and expertise required, and mobilising support if necessary. A realistic assessment needs to consider the level of analysis and whether the appropriate skills can be found in-house, or whether support from outside is needed. For example, if civil society wants to compare EITI data with other sources of information, identify tax evasion 'red flags' (an indicator of a potential corruption risk), work on specific commodity valuation issues, or map the role of state-owned enterprises in revenue flows, it may require an improved level of analytical expertise and technical skill. It is possible to create or use more complex tools to explore data, as has been done for the issue of jade extraction in Myanmar using EITI report information or to examine company project reports via [resourceprojects.org](http://resourceprojects.org).

It is important for civil society to identify who needs the data and to understand that recommendations based on data analysis may lead to decisions being taken. Civil society should be clear about what to look for in EITI reports or within government systems (especially if EITI has been mainstreamed in the country). It must bear in mind the questions requiring answers, and align resources accordingly. Such questions often reflect the priorities determined at the

initial stage of report preparation. A review of the data will most likely lead to additional questions to be explored, especially if unexpected data, discrepancies or gaps are observed. For example, if a major company operating big projects does not declare any taxes, this could require further analysis. In the Philippines, EITI has been used to ensure long-term change in the national extractives sector (see case study box).

Just as there is an obligation to use the data that civil society has advocated for, there is a clear responsibility for civil society to ensure that data is not misused. It is vital that civil society conducts rigorous data analysis to avoid its credibility being undermined.

### LONG-TERM CHANGE IN THE PHILIPPINES EXTRACTIVES SECTOR

Bantay Kita–PWYP Philippines (BK) uses the EITI platform to influence long-term change in the country's extractives sector. The coalition prepares a civil society assessment of the national EITI reports to guide its coalition members and address report findings. A recent assessment report analysed metal ore mining, and oil and gas data for 2015 and 2016. It also included a trend analysis, based on the data from all EITI reports, for the fiscal year 2015/16. BK also conducts research related to the coalition's priorities, such as studies on the downstream mining industry, beneficial ownership of mining companies and small-scale mining. Its sub-national civil society organisation primers help local civil society to assess project-level data and information, thereby providing a regional perspective on EITI data.

Through its Mining Transparency and Accountability Index, BK ranks the government and extractive companies in terms of disclosure of information prescribed by Philippine laws and mining regulations.

### 2.5.3 UNDERSTANDING EITI REPORTS

There are many different ways to analyse and use data on the extractives industries. Before conducting thorough data analysis, civil society can perform an overview to verify the consistency of the information, and assess the quality and reliability of the data in relation to the sources and process used to collect it. It is also necessary to consider the extent of the data, the level of disaggregation, and whether the data meets civil society requirements. The EITI Standard describes the minimum levels of information that must be presented in an EITI report. Comparing the data presented in an EITI report with the requirements of the EITI Standard will help civil society assess its value.

For example, if civil society wants to ensure local communities are benefiting from the revenues to which they are entitled through sub-national payments, it can look at the relevant sections in an EITI report (on sub-national payments and companies' social contributions) to identify the amounts transferred to local governments or community trusts. Local government agencies can therefore be held to account regarding these revenues.

At the national level, civil society may decide that the main outcome of the EITI reports is to ensure company payments match government receipts. It would therefore look at the reconciliation section to check for discrepancies and how they have been investigated. Civil society may wish to know whether any politically exposed persons (PEPs) have ownership interests in extractives licences, in which case it could cross-check the beneficial ownership section of the EITI report with a list of PEPs.

Analysis of extractives data can shed light on critical issues of which civil society may not previously have been aware. For example, a quick look at a company's payment report might show that it made an unusually low tax payment from a large, mature project. While this would not prove any wrongdoing by the company or government,

it may raise a 'red flag' that requires further analysis (see case study example from Ghana). Global Witness and Resources for Development Consulting have produced a handbook called 'Finding the Missing Millions' to guide analysis of such data. It highlights different ways that data can be used to identify potential government revenue losses. Another example is the need to find out if benefits from the mining sector accrue equally to men and women, which would require sex-disaggregated data to be collected right from the start of a project (see Harmonized Gender and Development Guidelines).

#### RAISING A 'RED FLAG' IN GHANA

Revenue data published by the oil company Tullow on its website highlighted a potential US\$100 million shortfall in corporate income tax payments from Ghana's Jubilee oilfield. Tullow's revenue disclosures showed that tax payments from the Jubilee oil field were zero in 2011 and 2012. This was to be expected, as the project was in an early stage of production and still recovering initial investment costs. In 2013 and 2014, the tax payments increased to US\$107 million and US\$115 million respectively. This indicated that the project was entering a more mature phase of production when corporate income tax could be expected.

However, in 2015 and 2016, the tax payments dropped back sharply to zero. This was unusual in light of Tullow's payments in the preceding years and the stage of the project lifecycle. Further enquiries by the Natural Resources Governance Institute (NRGI) showed that the zero tax contributions were partly explained by Tullow using capital investments in neighbouring oil fields to reduce its tax payments from the Jubilee field. As well as identifying unusually low payments and questionable tax practices, NRGI's analysis highlights the need for civil society to monitor payments over time, as sharp deviations in expected payments can represent 'red flags' that need further investigation. See the NRGI report for more.

In many cases, data analysis will involve using information published outside EITI reports. These sources can provide information that is more up to date than EITI data, which often has a long time lag. Government ministry websites or official company documents, such as annual reports, often include information that can be important for data analysis, such as royalty rates or production volumes in particular commodity sectors. Many international extractives companies are now required to disclose up-to-date details about their payments to governments in every country in which they operate.

Civil society should consider organising data workshops in collaboration with experts to review extractives sector disclosures such as EITI reports, and to build capacity within civil society for analysing extractives data from other sources (e.g. mandatory payments-to-governments reports produced by extractives companies).

### 2.5.4 PRESENTING FINDINGS

EITI reports have varying levels of complexity. While it is important not to be intimidated by data, there may be concern from civil society regarding the presentation of data in EITI reports. However, the EITI reporting experience around the world indicates that civil society and other stakeholders, including governments and national secretariats, have made significant efforts to present EITI data in a user-friendly format, tailored to the context and target audience. Examples of the approaches used follow.

#### SIMPLIFYING THE DATA, OR PRESENTING SUMMARY EITI REPORTS

In Kazakhstan, EITI reports are simplified, presenting the main findings in diagrams and graphs. The summary EITI reports are then presented as infographics on the home page of the EITI Kazakhstan website as a 'popular' version. For the 2013 report in the Philippines, civil society used infographics to show the amount paid by mining companies to the government; while in Myanmar an EITI fact sheet was produced based on the first report.

## PRESENTING MAIN FINDINGS AS A NEWS ITEM

News reports are often prepared by national secretariats, government host agencies or the EITI International Secretariat for sharing information with a wide range of stakeholders, including journalists, governments, donor agencies, civil society organisations, companies, investors and citizens more broadly. The 2016 report from Trinidad and Tobago confirms the sharp decline in extractives revenues and draws attention to areas of concern, including unpaid transfer licence fees, unpaid fees from quarries, weak auditing practices in companies and government agencies, and poor production data. The decline in revenues suggests there is a need for optimal revenue collection.

## VISUALISING THE FINDINGS

Findings can be visualised as infographics and summary briefs or brochures. Civil society organisations in Cameroon produced a 'comic' showing the country's gains from its natural resources. In Peru, data was presented in workshops and through radio programmes, videos, television commercials, cartoons and animated gif files. In Nigeria, a pilot data collection exercise on beneficial ownership was explained in infographics.

## COLLECTING THE STORIES BEHIND THE DATA

Using the data from the EITI report, a civil society organisation in Kazakhstan created a web story on social investments in local infrastructure and social projects derived from extractives revenues – a topic of great interest to local communities.

## 2.5.5 GOING BEYOND EITI REPORTS

When assessing an EITI report, civil society can focus on the data relevant to its concerns, such as the economic contributions of extractive industries, revenue collection, local government shares, and social, development or environmental programmes. Civil society organisations can then put forward recommendations to enhance EITI reporting.

Civil society may also create shadow reports that are more focused on local demands. This may require looking at additional sources and developing tools and modules to generate and share more appropriate data. For instance, Bantay Kita in the Philippines worked in partnership with academics and other civil society organisations to create mining and environmental monitoring modules. Bantay Kita's work demonstrates how communities can become skilled in using such tools and interpreting data.

Another approach is to seek support from expert organisations or consultancies for specific purposes, such as creating a model for understanding contracts. A recent collaboration between the Lebanese Oil and Gas Initiative and OpenOil led to the development of a financial model based on the latest exploration and production agreements published by the Lebanese government.

Many countries are interested in how to move the EITI process from the national level (producing a country report that reflects national priorities) to the sub-national level. Sub-national EITI implementation, which includes producing a sub-national EITI report, is one way for civil society to progress its agenda for transparency and accountability in the extractives sector.

## 2.5.6 RECOMMENDATIONS FOR CIVIL SOCIETY IN INFLUENCING DATA ANALYSIS

Levels of data analysis

- Take time to identify carefully what priority questions require answers.
- Keep in mind that many different levels of analysis can be undertaken.
- Ensure sufficient time and resources have been committed, capacities strengthened, partnerships developed and support mobilised for the data analysis.
- Take care not to misuse the data, so as not to undermine its credibility.

- Develop recommendations for action or improvement of the data analysis process, based on the analysis done.
- Analysing EITI reports and other sources
- Take time to review and assess the EITI report, and publish individual findings as a shadow report addressing the main concerns not included in EITI, such as socio-environmental information or climate change.
- When carrying out an analysis, transform raw data into meaningful information and present it in a user-friendly format.
- Look for relevant stories that can be extracted from figures, keeping the audience in mind.
- Use new communication technologies as much as possible, when relevant.
- Ensure EITI reports reach communities at sub-national level, for example, through workshops, radio messages, public events and other meetings with indigenous peoples, local organisations and social movements.
- Presenting the results of data analysis
- Civil society should bear in mind how data could be presented in a user-friendly, understandable and straightforward manner. Thinking about the target audiences for analyses should help simplify and customise data analysis findings for advocacy purposes and for setting the policy agenda.
- Remain focused on the most important information. Too much information will dilute the impact of the civil society message. Information must be presented logically for easy understanding: the main idea first, followed by supporting evidence.
- Tailor the language to suit the target audience. Give short explanations alongside graphs, tables, pictures or images.
- Ensure that the numbers given are double-checked and reliable. Be sure to credit the data sources, unless they prefer to stay anonymous. Explain the methods of data collection and analysis.

## USEFUL RESOURCES SOURCES OF DATA

**EITI country reports** - these can be found on the EITI website

**Open EITI Data** - this is the EITI International Secretariat repository of EITI summary data. This data is accessible in machine-readable formats and via an application programming interface (API)

**National EITI open data portals and websites** - the EITI International Secretariat maintains a list of open data portals and websites in different EITI implementing countries

**Resource Projects** - is an open source repository that allows users to explore, analyse and download data on payments made to governments by extractives companies on a project-by-project basis

**Global Beneficial Ownership Register** - developed by OpenOwnership, this open global beneficial ownership register serves as an authoritative source of data about who owns companies

**Resource Contracts** - a directory of petroleum and mineral contracts

**The Resource Governance Index** - compiled by the Natural Resource Governance Institute, this provides access to a number of indicators of different dimensions of extractives governance

## UNDERSTANDING PROBLEMS, CONTEXT AND USING DATA

**Extract-a-Fact: Data Tools & Resources** - provides details on sources of data; tools for accessing, cleaning and analysing data; and examples where practitioners share their experiences of using data

**Bantay Kita Environmental Monitoring Handbook** – this practical guide for communities affected by mining companies guides them in monitoring mining operations

**EITI Brief: EITI and Gender Equality** - highlights some of the gender dimensions of EITI

**Gender and Extractive Industries Program of the World Bank 2013 calendar** - resource with text and cartoons illustrating issues where gender disaggregated data would be useful

**Natural Resource Governance Institute: Twelve Red Flags: Corruption risks in the award of extraction sector licenses and contracts** - this report aids understanding of corruption risks in licensing and contracting



## Chapter Three:

Using data to drive debate  
and change



data disclosure prevents parties acting in a closed or non-transparent manner, promotes responsibility among the concerned parties, addresses the issue of corruption, and enables targeted analysis and action.

# Chapter Three:

## Using data to drive debate and change

### 3.1 HOW CAN DATA BE USED TO BUILD ADVOCACY AND ACCOUNTABILITY?

#### 3.1.1 INTRODUCTION

Once data has been collected and analysed, civil society should look at how it can use this evidence to advocate for changes and reforms. To influence meaningful change, civil society must be clear about the desired outcomes, what action is needed to achieve them, and which stakeholders will be the main actors in these efforts. It is possible to achieve a range of potential outcomes when civil society has access to properly analysed data. These include the following.

- Building trust: It is important to build trust within different groups and between different stakeholders (including government, companies and civil society).
- Influencing policy changes: These can be based on evidence generated from data analysis.
- Revealing the gaps between policy and implementation: Existing policies may not be implemented or may be implemented ineffectively. Implementation gaps can be

caused by factors including lack of capacity, resources or political will. Monitoring and data analysis by civil society can reveal gaps between policies and implementation.

- Identifying censure or consequences: In some cases, civil society monitoring and analysis may identify non-compliance, malfeasance or corruption, or government revenue losses, and formal mechanisms might be activated to take action against individuals, organisations and companies.
- Changing cultures, behaviours and norms: The long-term objective is to strengthen transparency and accountability to shift the culture, behaviour and norms of extractives governance. These changes can underpin robust, sustainable and inclusive reforms that can survive changes in administration or policy champions moving on. Such changes can also increase the quality of decision-making.

Civil society monitoring of the Extractive Industries Transparency Initiative (EITI) reporting and analysis of published data may suggest that some issues have been resolved or that there is a need to advocate for additional data to be disclosed. For example, relevant data should be disaggregated by gender so it is possible to see how women and men may benefit or bear the costs of extraction disproportionately. Data analysis and engagement in the advocacy process may reveal information and insights that can improve understanding of the problems EITI seeks to address. An appropriate advocacy plan can then be built.

This section outlines how to define priorities in advocacy, implement an advocacy strategy, use various avenues to achieve accountability, and conduct evaluation activities.

#### 3.1.2 DEFINING A STRATEGIC PLAN

It is vital that civil society takes the evidence drawn from the accessible data and turns it into strategic advocacy to hold governments to account and push for desired changes.

#### WHAT CHANGE DOES CIVIL SOCIETY WANT?

Before developing an advocacy plan, civil society should revisit the national priorities and challenges identified early on (see section 2.2 on 'What kinds of data best meet the needs of civil society?'). The EITI reporting process usually takes at least six months, sometimes a year or more, and civil society should be sure to revisit its existing priorities and challenges, and to assess how the data accessed and analysed reflects these. When priority data is still missing, this should be taken into consideration in future requests for data collection.

Key priorities supported by data will form the pillars of any strategic advocacy plan. Civil society should be quite clear about the results it wants and expects, outlining clear objectives. It is important to keep in mind that it is difficult (if not impossible) to request an entity (such as the government) to act on a dozen identified issues.

This means there is much work to be done in strategic prioritisation. Civil society should select a limited number of advocacy objectives, so as not to dilute priorities or overwhelm the target. These objectives must then be prioritised and plans for their attainment made according to a realistic timeframe.

The example from Niger shows how civil society advocacy needs to be prioritised and maintained if it is to deliver real results.

In 2013, civil society in Niger identified the renegotiation of a uranium contract as a key advocacy priority. Members of the PWYP coalition pointed out that French mining company Areva had secured a 'sweetheart deal' that enabled it to pay a lower royalty rate than that declared in the applicable regime. Royalties make up the majority of uranium mining revenues paid to the Niger government. After months of pressure from civil society, in 2014 the Government of Niger and Areva agreed to revise the contract terms and bring the royalty rate into line with the applicable regime.

Although civil society successfully achieved its objective for a contract renegotiation, analysis by Oxfam France of Areva's 2016 mandatory revenue disclosures indicated that Niger was still not getting a fair share from the uranium deal, despite the revised terms. This shows the need for civil society to monitor the implementation of the policy changes it calls for, and to continue applying pressure to governments to ensure the policies remain fit for purpose.

#### MAPPING THE ACTORS INVOLVED

Civil society should map key actors at local, regional and international levels who will need to be convinced or could become allies in advocacy efforts. For example, stakeholders can be categorised as actively supporting, inactively supporting, neutral, inactively opposing, or actively opposing an issue. Mapping or

categorising enables civil society advocates to know who to engage with for support, and where to expect opposition. Mapping can also help civil society assess its chance of campaign success. If all stakeholders are vigorously opposing the reform advocated for, it may make sense to postpone advocacy efforts until there is more chance of success. Conducting a power mapping of relevant stakeholders can help define which advocacy agenda should be prioritised and who the key targets should be.

### SEIZING OPPORTUNITIES

In principle, advocacy activities should be based on a pre-agreed strategy. However, unforeseen opportunities will always arise, and civil society must be prepared to take advantage of them. These may include events on the national or local political agenda (such as new hydrocarbon blocks being awarded), a period of electoral campaigns (where the issue of revenue sharing can be high on the public agenda), or a corruption scandal involving public officials or companies. All events that create opportunities for civil society's demands to be heard must be considered. Civil society should seize the moment when it comes, even if this means changing priorities. For example, in Brazil, it has been easier to advocate for reform of state-owned enterprises immediately following the recent corruption scandal in state-owned oil company Petrobras. Targeting advocacy efforts strategically

Once civil society has identified its advocacy strategy based on the priority issues, key opportunities and main actors who need to be involved, it should outline a more detailed plan with clear objectives and activities, detailing who has to do what and when. It is best to use specific, measurable, achievable, relevant and time-bound (SMART) indicators. A key stakeholder should be appointed to lead the implementation of the advocacy plan.

One hurdle often encountered by civil society at this stage is the development of an overly ambitious advocacy plan that includes an unrealistic number of activities to be completed,

with no clear division of roles and responsibilities. Conscious efforts must be made to avoid falling into such a trap. The case study from the Democratic Republic of Congo provides a good example of targeted intervention.

### TARGETED ADVOCACY IN DR CONGO

DR Congo's 2010 EITI report uncovered major revenue leaks from the revenue collection agency Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participation (DGRAD). Civil society used this information to successfully advocate for a government inquiry to recover the funds and for the implementation of better oversight mechanisms for the mining revenue collection system. The EITI report revealed that US\$88 million in mining revenue transfers made to DGRAD had not been accounted for. This fuelled a public debate about the lack of accountability among tax collection agencies such as DGRAD. The national civil society campaigned for the government to trace the missing US\$88 million and publish its findings. The EITI disclosure and civil society campaign led to several improvements in DR Congo's mining revenue collection system, and multiple government investigations led to the recovery of US\$82 million. All tax collection agencies are now subject to annual audits. The government's tax intake subsequently increased and the level of revenues withheld by collection agencies declined.

Communication, including key messages, must be developed carefully at this stage. Whether data analysis leads to desired changes is often highly reliant on the way in which and by whom these findings are communicated. The tone and message style must depend on the target audience and should also be chosen as part of the overall preparation for activities undertaken

within the strategic advocacy plan. While different communication tools are needed for different audiences, (e.g. a company chief executive may need detailed overall figures, while a local tribal leader needs information specific to the location), it is always good to create a narrative story to make the advocacy tool appealing and convincing. For example, the Natural Resource Governance Institute produced an information brief for Myanmar members of parliament, designed to be read in 10 minutes on the parliamentary benches, on 'Who gets Myanmar's oil and gas revenues?'

### 3.1.3 IMPLEMENTING AN ADVOCACY STRATEGY

To ensure an advocacy campaign achieves its goals, stakeholders must first define the strategic targets, allies, activities and materials needed to implement it. Implementation may require a diverse range of competencies and expertise; it may also involve many different stakeholders, who may hold various starting positions (actively supporting, inactively supporting, neutral, inactively opposing, actively opposing). It is important to know (or find out) how to influence the stakeholders that hold the power required to promote change in relation to the advocacy objectives, and who else might have an effect on them. The greater the number of influential allies, the more likely the effort will be successful.

Civil society can develop many activities and communication materials to help implement an advocacy campaign. It may also consider using a participatory approach for the implementation activities. Visual methods are useful in public participation, and often enable ideas to be communicated in a more accessible and compelling form than written texts. Community reports, based on the experiences and findings of a specific community or group interested in and knowledgeable about the extractives sector, are another useful resource.

Different media and communications tools can be used to reach a wide range of people

and so help to achieve the desired result. For example, the Publish What You Pay (PWYP) Cameroon coalition developed a poster to raise public awareness of government commitments regarding the country's gains from its natural resources. The case study examples illustrate the importance of including diverse voices and broad civil society expertise in advocacy campaigns.

### ENGAGING ACTORS IN SUCCESSFUL ADVOCACY CAMPAIGNS

In DR Congo, civil society representatives in the multi-stakeholder group developed a consultation mechanism that helps collate the views of the wider civil society prior to their attendance at EITI multi-stakeholder group meetings. After these meetings, they present a report to all interested civil society organisations.

In **Cameroon**, during the early years of the EITI membership process, civil society representatives from the PWYP Cameroon coalition participating in the multi-stakeholder group invited all PWYP members to read the EITI reports and formulate a joint communique. Such an approach creates cooperation and builds trust among participants.

In **Ukraine**, to strengthen its advocacy efforts, the civil society coalition 'Energoproz' consistently engages with different civil society networks in the country.

In **Nigeria**, an EITI civil society steering committee comprises representatives from extractive industries host communities, women's groups, youth groups, the media, professional associations, extractives sector unions, non-governmental organisations and disability groups. The committee supports civil society representatives that take part in the multi-stakeholder group, providing feedback from a highly diverse range of Nigerian society and adding legitimacy to civil society positions in multi-stakeholder group discussions.

## MONITORING THE INFORMATION NEEDED TO ADDRESS AN ISSUE

When asking the EITI multi-stakeholder group to advocate for change, civil society needs to tailor any supporting information to gain maximum buy-in from the target audience, which may include individuals, company managers, administrators, those in charge of policy development, regulatory authorities and government officials. The information required may not be contained in the EITI report, but may be sought from reporting entities and other stakeholders involved in the EITI process. It is best, however, to focus on issues identified by analysis of the EITI reports or the requirements of the EITI Standard. These two sources of information are considered credible and have legal value. If other concerns need to be aired, it is possible to add credibility by linking them to issues raised in the analysis of the EITI data.

International actors engaged in EITI can be valuable allies for advocacy at a national level. Monitoring compliance with the EITI Standard is essential to mobilise international EITI bodies and other countries implementing the initiative. Experience from several countries shows that the EITI process and resulting reports (reconciliation and validation) contain a considerable amount of data that can be used for advocacy with the potential to yield real results. This is more likely if the multi-stakeholder group's work plan is aligned with national priorities (EITI Standard Requirement 1.5.a.b); and work plans, EITI reports and annual activity reports (Requirements 7.4 and 8.4 of the EITI Standard and International Secretariat Guidance Note 5) are submitted for approval (Requirement 1.4.b.iv). Indeed, the requirement of approval of these instruments is in itself an invaluable opportunity for advocacy. The more the question of adherence to the EITI Standard is used as a subject for advocacy, the more support can be gathered from international stakeholders.

## MONITORING POLICY IMPLEMENTATION GAPS

Advocacy typically focuses on indicators of policy change, and these can be used to demonstrate short-term results. To do this, civil society needs to monitor the implementation of policy and the process of reform. Monitoring performed by citizens can provide useful evidence that may fill the gaps between policy and implementation. In some cases, civil society must consider adopting a watchdog role and undertaking other responsibilities, including supporting the policy implementation phase.

## CREATING SPACES FOR PARTICIPATORY DISCUSSION

The main benefit of the EITI process is its ability to bring civil society together with government and extractives companies. This space provides a unique opportunity for civil society to develop formal and informal relationships with government and private sector agents (e.g. in Burkina Faso, see case study box). This opportunity is reinforced by the frequent use of the same tools and approaches as are used for the achievement of common objectives, and a shared vision of the extractives and mining sector. EITI promotes collegiality. In this respect, the meetings of the multi-stakeholder group constitute the first space for advocacy. Civil society can bring concerns to the table, while inviting its peers to do the same, through correspondence and the formulation of queries based on the EITI Standard and reports. When peers in civil society send communications and questions, external pressure is created and this may cause the multi-stakeholder group to add these issues to its agenda. To succeed in this approach, civil society representatives should be proactive in communicating data and evidence to their counterparts, following the steps discussed in the first chapter of this guide.

Although accountability refers to the obligation of a person or organisation to account for and transparently disclose results, civil society

actors in the multi-stakeholder group may need to adopt less adversarial and more cooperative approaches. That said, civil society has to contribute without being co-opted or failing to defend its position. While taking action, civil society should remember to include all its concerns in the multi-stakeholder group meeting agenda items. Having made use of data in developing an advocacy position, civil society must be courageous, use facts, mobilise support, acknowledge others and be assertive, while maintaining collegiality.

### LOCAL DEVELOPMENT FUND IN BURKINA FASO

Burkina Faso's '1% Campaign' is an example of civil society action calling on the government and parliament to introduce a new mining code compelling mining companies to contribute 1% of their gross revenues to a Local Development Fund. The reform was adopted in June 2015 and was an outcome of utilising payment information provided in the EITI report. The Local Development Fund represents a significant amount of money in a poor country like Burkina Faso, and the mining code dictates that the fund should be financed by the government providing 15% of its mining revenues in addition to the mining companies' 1%. However, as of April 2017, these monies had not been collected. The mining companies have resisted the level of payment, which they feel is too high. This case highlights the important role civil society can play in monitoring and highlighting the gaps between legislation and its implementation.

### 3.1.4 OTHER CIVIL SOCIETY APPROACHES FOR ACHIEVING MORE ACCOUNTABLE GOVERNANCE

Advocacy campaigns can be highly successful in influencing policy change, but there are additional

avenues through which civil society can achieve accountability in natural resource governance. These include building trust and changing norms and behaviours. Although these approaches may feel less tangible than policy change, they are important and meaningful.

### BUILDING TRUST AS AN OUTCOME

Meaningful negotiation and dialogue with stakeholders is required to build trust, and civil society groups can be instrumental in building trust among stakeholders involved in natural resource management. Evidence can be used to hold other stakeholders accountable and to win commitment to corrective action, and this can help to build trust between different parties.

Non-civil society actors can be useful allies, and collaborating with them can lead to successful results. For instance, a missing local authority payment identified as an advocacy issue through analysis of the EITI report can yield a partnership between civil society and the local authority, since both are equally interested in recovering the payment.

The examples from Ghana and Zambia illustrate the benefits of building trust among stakeholders.

### INCREASING REVENUES FROM EXTRACTIVES IN GHANA

In Ghana, the EITI multi-stakeholder group used an auditor to analyse payments disclosed by companies in the 2011/12 EITI report. The analysis found that no capital gains tax had been paid after an extractives company had purchased a stake in a Ghanaian oil field, resulting in an estimated revenue loss of US\$30 million for the country. Although companies are required to pay capital gains tax under Ghanaian law, the government was unable to collect the revenue due to conflicting and ambiguous petroleum sector tax regulations. Based on these findings, EITI worked with the government to revise the fiscal regime to ensure capital gains from the oil sector are taxed in the future. The EITI report findings also led to a number of other reforms to increase revenues from the extractives



sector, including establishing a fixed royalty rate and higher ground rents. This case illustrates how negotiation helps to build trust between actors and can lead to significant change in practices or policies.

### PROMOTING STAKEHOLDER ENGAGEMENT IN ZAMBIA

In Zambia, after analysis of the 2014/15 EITI report, the local PWYP coalition realised that, among other councils, Lufwanyama Council had not received property and business rates taxes that should have been paid by the mining companies. This led PWYP Zambia to hold an engagement meeting with the authority on mining tax obligations. The meeting prompted the local authority to disclose that it was owed additional revenue from mining companies, including unpaid tax from companies not included in the EITI reports analysed. The council requested PWYP to moderate the first-ever district engagement meeting between the council and the mining companies. Following the forum, the mining companies in attendance committed to paying their tax obligation to the local authority.

### BEHAVIOURS AND NORMS

One of the most significant challenges facing civil society is the need to plan over the long term (beyond a decade). This involves identifying the desired structural changes in society, government and companies a long way ahead. For example, structural change may include gender inclusivity and the evolution of a democratic regime. It is unlikely that such results can be achieved in short timeframes, as these changes require long-term systemic transformation. If the end goal is to ensure transparent and accountable natural resource governance, this is likely to involve building co-existence between citizens, civil society, governments and companies through explicit incentives for ethical behaviour and principles, to foster a culture of transparency and

accountability. In Peru and Mongolia, for example, it took a full decade of EITI implementation before the countries' governments and extractive companies embraced the principles of transparency as desirable.

### 3.1.5 EVALUATING ACTIONS AND RESULTS

Despite being a platform for dialogue and change, EITI has continually encountered hurdles in using data to promote accountability and legislative and policy changes. In this context, regular monitoring needs to be carried out throughout the EITI implementation cycle, to determine whether progress has been made in using data from EITI reports. Monitoring requires civil society to document changes that have resulted from data-informed advocacy. Regular evaluation and reflection can be useful in understanding the most effective approaches to ensure advocacy efforts create meaningful change.

Where advocacy leads to policy change, implementation of the change needs to be tracked to ensure it does not remain as a mere statement of intent, but is fully implemented by governments. For example, in Zambia in 2015, following public debate and engagement with stakeholders on EITI, Solwezi Municipal Council passed a resolution to share 10% of the revenues collected by local mining companies directly with affected communities. Although the resolution was legally binding, it had still not been implemented by June 2018, because the council had failed to prepare guidelines on how to distribute the funds. Likewise, in Cameroon, taxes collected for the benefit of local councils and affected communities are listed in the EITI report, but their distribution remains inadequate due to vagueness of the regulations that have no provision on modalities of transfer (periodicity, share between the municipalities), or distribution modalities. Where advocacy on the use of EITI data has yielded tangible results, it is essential for civil society to publicise the outcome, to create a platform for peer learning. At the annual national conference of Bantay Kita-PWYP in the

Philippines, for example, participants discuss the country's EITI report, together with civil society's assessment, the latest research findings from scoping studies, and other current issues facing civil society working on extractives, such as freedom of information or human rights.

### 3.1.6 RECOMMENDATIONS FOR CIVIL SOCIETY ON USING DATA FOR ADVOCACY

- Juggle short- and long-term aims when defining strategic goals, to enable gradual, substantive and sustainable changes in resource governance.
- Be clear about the changes required when designing an advocacy campaign.
- Think strategically about priorities when shaping campaigns, depending on opportunities and available support.
- Design advocacy efforts and messages according to the strategic goals.
- Remember to include all concerns in multi-stakeholder group meeting agendas, including document queries, discussions and decisions, and hold policymakers accountable for their commitments.
- Monitor, evaluate and communicate the impact of data-based advocacy, which is useful for learning but also in building the legitimacy and credibility of civil society engagement in the EITI process.

## 3.2 HOW CAN DATA BE USED TO ENGAGE LOCAL COMMUNITIES?

### 3.2.1 INTRODUCTION

The importance of community engagement in demanding transparency in the extractives sector cannot be over-emphasised. It also requires a good deal of effort to achieve. In addition to fuelling debate on extractives issues, community engagement is important as a measure of impacts and meaningful changes. The engagement of local communities in EITI and other disclosure initiatives ensures credibility and legitimacy, as well as providing guidance on

what is needed to bring about reform in natural resources governance. To ensure that citizens' voices are heard, engagement needs to embrace all groups, with particular attention paid to including women and marginalised groups that have a limited voice.

Engagement is a process of building relationships and, as such, it can take a long time. Civil society organisations should be aware of the challenges, especially under conditions of shrinking civic space. For example, community members may decide that they would rather go to an urban area for a planned training exercise, instead of going out to the community, because locally they could be identified or harassed by government security personnel. Beyond security issues, the challenges include managing the expectations of community members (who may see EITI as a 'magic bullet' that can solve all their problems), difficulties in simplifying complicated information, and language problems.

This section covers the guiding principles (the 'why, who, how and when') of engaging local communities.

### 3.2.2 WHY ENGAGE WITH LOCAL COMMUNITIES?

Engagement with sub-national civil society and local communities needs to be continual and is fundamental for many reasons. There is a strong belief that the voices of all communities must be heard when defining any national or sub-national agenda concerning how extractives are managed. Women and other vulnerable groups should be fully included in the EITI process to improve quality, ensure credibility and maximise the potential for triggering reforms that have impact on the ground. For example, in Nigeria, local community engagement has led to a process of reforming the petroleum sector, and the Petroleum Host and Impacted Communities Development Bill is currently being debated in parliament. In the Kyrgyz Republic, additional livelihood opportunities have been supported by the local extractives industry (see case study box).

The key reasons for engaging with local communities include the following.

- Promoting understanding of their views and concerns, and the challenges they face, leading to identification of the issues most important to them. Then the information needed to address these issues can be requested. For example, in Peru, environment-related information is often of particular interest to local communities, such as the forecast of the total income their area will gain from specific projects. The view of local communities should be regularly fed in to the work of the multi-stakeholder group.
- Informing local citizens when new information and data is made available, to improve their understanding of current challenges and answer their questions. For example, EITI reports describe the number of licences that have been granted in a particular geographic area and to whom.
- Bringing grassroots perspectives to critical issues. For example, if revenue sharing is one of the main problems, local voices can use EITI report findings to support their requests to improve the sharing formula or call for an enhanced benefit-sharing mechanism.
- Undertaking further or complementary research about extractives issues. Locally-driven research, or research using participatory approaches, helps mobilise communities and allows their views to be heard. This also applies to monitoring projects, where local communities can play a crucial role.
- Contributing to national and local advocacy campaigns that aim to influence decision-making processes. Grassroots mobilisation demonstrates popular support for proposed reforms, putting pressure on decision-makers. Local communities can play a decisive role when they have a sense of ownership of campaigns. For example, in Myanmar, local mobilisation and campaigning in Kachin State has contributed

hugely to building momentum for reform of the jade sector. Having strong relationships with communities helps build legitimacy, both for the civil society organisation itself and the accountability claims it is making.

- Facilitating community voices and input to national legislation and ensuring the inclusion of women's issues. For example, the Women in Extractives group in Nigeria galvanised women's voices around national legislation on reforms in the petroleum industry.

### COMMUNITY AGREEMENT IN THE KYRGYZ REPUBLIC

Civil society organisations in the Kyrgyz Republic established 'public hearing receptions' in six extractives regions to engage local communities in discussions and decisions around extractives issues. Communities and companies were recommended to develop community agreements to make sure local concerns are addressed. In one of the regions, based on the agreement signed between a mining company and local community as a result of company-community conflict (e.g. in Talas region), the extractive company built the road, agreed to buy food produced by local farmers for company workers, and built up a small garment factory that produced uniforms for the company's employees. This and other examples are described in the Guidebook for Conflict Management in the Mining Industry in the Kyrgyz Republic.

### 3.2.3 WHO TO ENGAGE WITH?

It is essential that civil society representatives working with communities understand the different power dynamics between and within the groups. Communities are different from one another, but understanding their general nature will help to build the right relationships, understand local priorities and receive maximum support from them.

To ensure that essential groups are not left out in engagement activities, there is a need to spend time understanding the different groups in the community and their levels of influence. A proper mapping exercise will identify the relevant groups that may be directly or indirectly affected by extractives issues. These may include:

- **political leaders (at all levels of governance)**
- **traditional leaders (such as chiefs)**
- **religious leaders**
- **community or indigenous leaders (which may include traditional leaders, but also includes leaders from women's and youth groups)**
- **ethnic, caste and class representatives**
- **community-based groups (development associations, town or trade unions, disability groups, businesses and land owners).**

This list is not exhaustive or prescriptive. The mapping exercise will reveal the different community groups and how they may be relevant to a particular issue. Civil society has to decide which groups, and people within the groups, most need to be involved, based on the local context. For example, in the Philippines, indigenous peoples were identified as a principal group that could influence the appropriate allocation of mining royalties for development.

### ENGAGING INDIGENOUS PEOPLES IN THE PHILIPPINES

When data from the Philippines' first EITI report was disclosed, which included an examination of the agreement between indigenous peoples and mining companies, Bantay Kita-PWYP Philippines (BK) saw a need to engage indigenous leaders in mining-affected areas to make them aware of the report findings, and to find out if they were receiving their fair share of the prescribed benefits. BK identified a need for advocacy to ensure the royalties from the mining companies were earmarked for development purposes. In response, it engaged with the National Commission on Indigenous Peoples, the primary government agency tasked with protecting

the rights and well-being of indigenous peoples. In October 2015, BK hosted a workshop for indigenous peoples and other stakeholders on mining and community development. The aim was to provide a platform for discussions on transparency and accountability initiatives, reflections on the social and economic impact of mining on the local communities, and identification of measures that could contribute to maximising the benefits derived from mining activities. At the end of the workshop, the participants, who included 19 indigenous representatives, identified a potential way forward involving a national coalition of indigenous peoples' groups that could negotiate with mining companies and the government.

### 3.2.4 HOW TO ENGAGE WITH LOCAL COMMUNITIES

Once civil society actors have determined the different groups that need to be engaged, they can devise a strategy for the consultation process. This should consider issues such as gender, culture, language and the sensitivity of the issue at hand. Engagement methods used will depend on cultural factors, available resources and what is relevant and appropriate within the community setting. Care must be taken to choose culturally appropriate means of communication.

The most popular means of engagement used by civil society include the following.

- Focused group discussions: These are useful for obtaining specific information about a range of issues, usually from a group of 10–15 people, with gender balance.
- Face-to-face interactions: These are a good way for local community voices to be heard and bring stakeholders together physically. This can be challenging, however; for example in Mongolia, where half the population are nomads, members of parliament seeking community views literally have to chase people when they want to speak to them face to face.

- Town hall meetings: These are useful for engaging a wider section of the community. Gender diversity must be considered in audience selection.
- Conferences, roundtables, roadshows, seminars, media talks, memoranda, panel discussions, traditional or religious festivals, drama and art.
- Information toolkits, primers, video, infographics, educational materials, radio, television commercials, documentaries.

Even with limited resources, civil society can present EITI findings to community stakeholders in compelling ways. The preparation of EITI reports at the sub-national level is a means of incorporating local communities into the EITI process. This allows for more meaningful resource debate to take place in areas with extractive industries. Sub-national reports contain useful information for communities at project level and show how transfers from the national government are allocated to sub-national governments, universities or institutes, and how the money is being used. For example, in Myanmar, civil society established a sub-national EITI unit to create a platform for dialogue among local stakeholders. In the Philippines, the Compostela Valley Initiative has a provincial multi-stakeholder council that publishes its own transparency initiative report.

### TIPS FOR PRESENTING DATA TO A SPECIFIC COMMUNITY GROUP

- Provide information that is important to communities, such as project benefits, impacts, environmental contributions and impact studies. Use specific project data by country, geographic area, sector or year.
- Present information so as to allow comparison and cross-referencing (e.g. fiscal with environmental information, where available). If using infographics, ensure they are accompanied by a complete explanation of what each element means.
- Use the local language, with examples and specific cases relating to projects relevant to the local context or that affect local communities directly or indirectly.

- Be mindful of potential technical limitations. Although multimedia materials (animations, videos) are an attractive form of community presentations, local technical limitations may preclude the presentation of data and infographics this way. Flip charts and printouts are useful alternatives.

### 3.2.5 WHEN TO ENGAGE LOCAL COMMUNITIES

Community-level consultations are a crucial part of engaging with relevant citizens. In the context of EITI, they are most effective when held at strategic moments within the EITI reporting cycle.

#### DEVELOPMENT OF THE TERMS OF REFERENCE

It is important to engage communities in the development of the EITI report terms of reference and during the early stages of drafting the report. As well as helping to identify key challenges and priorities for local communities, this will help ensure that their data needs are reflected in the final EITI report. The groups to be involved include civil society members of the multi-stakeholder group, community-based organisations and members of wider civil society.

#### AFTER EITI REPORT PUBLICATION

Consulting with communities after the EITI report has been published helps them to evaluate the report and identify how it can be used to address local issues. As it can be quite challenging to hold in-depth analysis workshops with a wide range of civil society members, the first round of EITI report analysis should be carried out by a selected group of PWYP coalition members, experts and civil society representatives in the multi-stakeholder group. Once the initial analysis is completed, consultations with wider civil society can be carried out to ensure comprehensive dissemination of the findings. It is important to record all feedback generated at this stage, as it can be used to inform the next EITI reporting cycle.

### PRIOR TO DEVELOPING AN ADVOCACY STRATEGY

This consultative process shapes and endorses a strategic advocacy plan for local communities. Based on analysis of the EITI reports, the plan must map out how civil society will use data from the report to push for reform. The example from Zambia illustrates how civil society engagement influenced district authorities to channel mining revenues towards social development projects.

#### SECURING FUNDS FOR LOCAL DEVELOPMENT IN ZAMBIA

Using data from EITI reports and district budgets, PWYP Zambia found that mining payments to local communities were not always being used as intended. In one case, 1.3 billion Zambian kwacha (about US\$250,000) worth of funds assigned to the local constituency development fund to serve the community was incorrectly being used to finance capital projects. Civil society engagement (which included monitoring and protests) helped ensure that proper financing guidelines were adhered to and that mining revenues were spent on local development projects.

As a result, PWYP has verified that more revenues are being directed to social development projects such as rubbish collection and road rehabilitation. In addition, district authorities have altered their attitudes to mining revenue management and accepted new transparency standards. These developments mark important progress in local community efforts to change district spending habits and move resources from administration and office maintenance to social development.

### 3.2.6 RECOMMENDATIONS FOR CIVIL SOCIETY IN COMMUNITY ENGAGEMENT

- Include affected stakeholders so they take responsibility and become more involved in advocacy.

- Be specific about the intentions behind engagement, so everyone is clear about the goals.
- Choose methods carefully, according to what will be most effective and appropriate, but also according to what people within the community are willing to do.
- Collect sex-disaggregated data and carry out gender-based analysis to improve project identification and implementation.
- Make messages clear and precise, using slogans if necessary.
- Choose simple actions to entice people to join and take part straightaway.
- Organise fun activities, such as a carnival or parade, to reinforce solidarity and support.
- Be patient.

### USEFUL RESOURCES

- **New Tactics in Human Rights Strategy Toolkit** - guidance for civil society activists to help create effective strategies for human rights work
- **Just Associates (JASS) Action Guide for Advocacy and Citizen Participation** - combines practical action steps with a sound theoretical foundation to help users understand the process of people-centred politics
- **Beautiful Trouble Toolbox for Revolution** - tools and training for civil society action towards a more just, healthy and equitable world
- **Training for Change: Spectrum of Allies** - strategic tool to analyse available social forces and build alliances
- **Participedia** - online resources with methods and cases studies for use in participatory processes
- **Natural Resource Governance Institute case study: Improving the impacts of extraction through sub-national multi-stakeholder groups in the Philippines** - documents the implementation, challenges and lessons learned from key projects in the Philippines
- **Localising Transparency: Exploring EITI's contribution to sustainable development** - an analysis of key challenges and lessons learned in implementing EITI