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Workshop 3.2 Anti-corruption practices in Non-Renewable Natural Resources for Sustainable Human Development, Thursday 16 Nov. 11:30-14:00

Topic: The Role of Civil Society in Preventing and Curbing Corruption: Promoting Greater Transparency and Accountability.

Introduction

I represent an organization that is working on mining, public accountability, policy advocacy, youth empowerment and human rights- that is the Network Movement for Justice and Development (NMJD). NMJD is a member of a coalition called the National Advocacy Coalition on Extractives which was born out of the desire to see the issues in the Non Renewable Natural Resource sector addressed. NMJD is also a member of the Civil Society Monitoring Group (CSMG). As a representative of that organization, I bring you all greetings in the struggle. Based on the vision of this noble organization, we believe that the utilization of natural resources in developing countries of the world today stand on the threshold of depletion and therefore requires rethinking of their exploitation as a means to economic development not as an end in itself. It is fast becoming clear that the promise that the Non Renewable Natural Resources held for Africa's economic growth over the decades has and is still being eroded by corrupt practices.

Civil society as a term the world over has become an attractive notion to many groups, including politicians, scholars, advocacy and non-governmental organizations. This sector is viewed by these groups as a dynamic and innovative source for raising new concerns as well as articulating new directions. Civil society encourages and facilitates direct citizen participation in both public and corporate governance, educate the citizens and scrutinize state actions.

On the other hand, there has been growing public recognition and discussion within and among nations of the problem of corruption; examining and re-examining the numerous faces of corruption as it impinges on country's economic and social development particularly for Non Renewable Natural Resources.

In the arena of Non Renewable Natural Resource, civil society is viewed as big money making business under the guise of non-profit making enterprises, trouble shooters and conflict mis-managers. For these reasons and more the concept of civil society means different things to different cultures, societies and people; varying from country to country and continent to continent. That not with standing the National Anti-corruption Strategy (NACS) for Sierra Leone took cognizance of the important role of civil society in curbing and preventing corruption by facilitating the creation of a Civil Society Monitoring Group to add an independent voice and evaluate the NACS from a civil society lens.

Despite these differences, civil society has the unique rights and authority to demand transparency and accountability from those in state governance provided there is a serious self introspection, criticism and transparent leadership. Maintaining this unique position can not be made visible unless civil society the world over is transparent and accountable to the communities they purport to represent.

Thus, the role of civil society in preventing and curbing corruption need not be over emphasized. All there is to it is for civil society in its quest to prevent and curb corrupt practices needs in itself to be more transparent and accountable to the communities they represent; thereby making a clean and clear slate for the fight against the epidemic especially in the Non Renewable Natural Resource sector.

Conceptualizing Civil Society

As mentioned earlier, the concept of civil society means different things to different societies, cultures and people. It is therefore important to define the organization and understand its dynamics, so that its roles can be clearly laid out in the context we are looking at it in this conference.

Several definitions have over the years emerged as the dynamics of the organization is being studied. Some of these are outlined as follows:

- Non –profit organized groups, clubs, and associations in society that operate independent of government and state e.g. universities, non-governmental organizations, movements, indigenous people’s associations, organized local communities and trade unions. However, it has to be said that in today’s world, due to poverty, sycophancy and sometimes, government and other pressures, most of these organizations are not totally independent as they should be; as an example trade unions federations should be able to stand out and speak for workers, indigenous peoples, peasants farmers, women etc., but are in most case these very trade unions representatives are found on government commission/boards that suppress these same people.
- Civil society refers to the totality of voluntary civic and social policy or institutions which form the basis or fractions of society as opposed to the force backed structures of state.
- Civil Society can be a name used to encompass a wide range of self-selected interest groups in a community, region, state, continent up to and including worldwide federations, networks, concerns etc.
- Civil society can also be referred to as all institutions and organizations outside government in the context of welfare: this includes trade unions, consumer organizations, the formal and informal welfare sectors, non-government organizations and community base d, religious organizations delivering welfare services, corporate social investment that is not private, employee assistance Programme, occupational social work and social workers in organized practice whether as individual or collective.
- Last but important also , a working definition given by the Centre for Civil Society based in the United Kingdom which states that , “ civil society refers to

the arena of **uncoerced** collective action around shared interest, purposes and values”. In theory it continues, “its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated. Civil society commonly embraces a diversity of spaces, actors and institutional forms, varying in their degree of formality, autonomy and power - giving the followings as examples, charitable groups development non-governmental organizations, community groups, women’s organizations, faith-based organizations professionals associations, trade unions, self help, social movements, business associations, coalitions, advocacy groups”.

The reasons for contextualizing civil society using varied definitions is to bring out the formal and informal nature of a dynamic platform that articulates the views and concerns for and on behalf of affected persons and with their participation, concretize this into actions for positive results and or change and thus the importance of their role in fighting corruption. Many achievements made by civil society though in some cases with adversity, are most times followed by wide spread popularity. This attraction makes civil society irresistible to both governments and donor agencies.

Sources for Corrupt Practices

Support of International Financial Institutions (IFIs)

The World Bank has been in the forefront of promoting liberalization of national mining codes to increase foreign investment through transnational mining companies. The Bank’s Multilateral Investment Guarantee Agency (MIGA) too has provided political risk insurance for mining projects in many countries. The mining companies have used these leverages (the Bank and the huge financial resource) to carryout their projects without much respect for local situations. As a matter of fact, the bank has urged and forced the countries like Sierra Leone to be an onlooker with no evenhandedness in the mining projects. So, government’s major income source from diamonds in Sierra Leone comes in the form of license fees, and export taxes. **Revenue from license and the 3% export tax in 2004 was only US\$5.2 million (out of total export of USD\$126million) and in 2005 it was US\$12million (for a total of US\$141.9 million). This excludes unaccounted revenue that went through the porous borders of Sierra Leone.**

Such investment policies and codes that the WB purport to assists poor nations to develop e.g. Sierra Leone (in progress), Guinea, etc. have contributed and continues in further weakening the institutional control and supervisory role the government plays in the mining sectors and as such, mining companies take undue advantage of these deficiencies in the systems to even report the correct revenue of their businesses. This tends to lay the basis for under valuation of mining earnings thus reducing the actual value of tax to be levied. The effect of the resource wealth on the country’s economic growth be it positive or negative depends on the quality of its institutions. For most of these rich resource countries structures and institutions are grappling for survival. Unfortunately many of the countries most dependent on diamonds are places where corruption is

perceived as endemic. Both at local and national levels bribery is often difficult to prove. Local communities can experience in such cases sense of powerlessness-believing that even if they follow the correct procedures and legal frame work they will not be able to influence the end results.

The control of the sector by foreign business sector

The Sierra Leone diamond and gold industry for a very long time has been under the hard hands of foreigners in Sierra Leone. Both the West African Nationals and the Lebanese community make up the main business people in the diamond sector as Exporter, Traders/Dealers, Middlemen and Supporters of artisanal Miners; while the home-grown Sierra Leoneans are mainly errand boys with few to deal and support much to the distaste and dislike of local people. This has seen the buying and selling of gold and diamonds in an unlawful manner, under priced – not taxed and then smuggled out of the country depriving the nation of the much needed resources in the sector. The diamond economy is largely in other people's hands. This process is enforced by inappropriate laws and policies.

Conflict of Interest (Enforcers of the mining laws and policies being handicapped by their participation in mining)

Another form of corrupt practice is seen at both local and national levels where the key stakeholders particularly for the enforcement of the laws and policies are seen to be sponsors and business partners in the mining sector. The key reason why so much problem is associated with the sector is due largely to the fact that Politicians (Parliamentarians, Ministers, Councilors and Chiefs, are all involved in mining (largely illegal) making it impossible to make good laws or even enforce any of the laws as well as facilitate any transparent and accountable mechanisms.

Mining companies in Sierra Leone do not have any respect for the local populace. They owe their allegiance to the Ministry officials and politicians only. As a result their activities are not monitored, they do not reclaim mined out lands. They use local security forces to harass and embarrass the people by chasing them out of their homes when 'blasting' the kimberlite, unduly arrest and detain any local person that raises concern or complaints all as a result of the so called brown envelopes received or undue favors levied in one instance or the other. Environmental Impact Assessments (EIA) and those who have such documents do not follow its plans and recommendations at all. Infact they completely ignore any commitments they themselves make in the EIA report and Environmental Management Plans.

Mining Industry operates like a caucus

Where mining industry fails to integrate genuinely and usefully with local economies but operates in secrecy it serves as breeding ground for black mailing and bribery. Instead mining encourages the development of a dependency syndrome and cultures around the enclave, with local communities deriving limited commercial benefits from mining

activities. For example, employment opportunities are mainly taken up by so called skilled expatriates and professionals from urban areas and as a result little transfer of benefits to locals in direct or indirect terms. These practices exacerbate inequalities and increase resentment towards mining operators and government.

Because the mining companies operate in total secrecy, the local communities very often have no knowledge of their rights and obligations, the state of the mining leases, the legality of the operations. The extent of the marginalization, exploitation and abuse of communities is unprecedented and a real source of chaos. For example in Sierra Leone the most notorious diamond mining companies.-Koidu Holdings S.A. Ltd (formally Branch Energy after Diamond Works), Sierra Leone Diamond Company (SLDC) and Milestones have had series of confrontations with affected local people and civil society activists demanding more transparency and accountability. Thus in most cases the mining companies use the divide and rule method in communities by giving personal gifts to few of the vocal activist or community elders to quiet any possible uprising against their operations.

Role of and Challenges of Civil Society

Sierra Leone mining has been going on for over 70 years but there is little to show for it by way of national and community development. Corruption from the look of things seems to be systemic where the institutions, rules, and norms of behavior have already been adapted to a corrupt modus operandi, with bureaucrats and other agents often following the predatory examples of, or even taking instructions from, their majors in the political arena. In Sierra Leone it goes with out saying that the mineral sector is ranked among the hotspots for corruption with the mining sector accounting for about 18% which is about 8 cases with no small amount involved with education, health agriculture etc. **(Anti-corruption Commission Report 2005)**

This is clearly evidenced particularly in the giving out of government contracts in the area of mining leases. Mostly the culture of corruption in the form of bribes have influenced the doing out of mining leases while the exact terms of these leases or Environmental Impact Assessments (EIAs) are not adhered to in practice , in many cases, EIAs do not even exist. This face of corruption may be seen by some school of thought as mild but having irreversible devastating adverse effects on the livelihoods and aspirations of the people affected but especially on the environmental, social and cultural rights of the community. This evidence is easily elicitable from a mining concession in my country Sierra Leone in West Africa; a mining corporate entity known as Koidu Holding S A Ltd., which got the mining lease during the civil war that ravaged my country for eleven years, under a military regime to carry out industrial mining failed to address, even up to this point the issues of relocation of the affected people of the Tankoro chiefdom, Kono district as stated in the EIA. In fact the company is engage in underground mining activities using the South African Legislation on Underground mining and more over shrouded in secrecy. This type of mining is said to be both dangerous to the workers and community. Can there be rest in such a community? The

answer is no but continual unrest leading to conflict at any time and this is the reality of the situation and this is the reality of the situation in that community: always chaos.

Corruption and bribes in the non renewable natural resource can divert or otherwise minimize public/community revenues as evidenced from an amount of US\$36,000 (Thirty Thousand United States dollars) secretly collected, supposedly to be 0.1% of total annual proceed by the Paramount chief of Tankoro Chiefdom from Koindu Holdings S.A. Ltd. Ltd (KHL) as agricultural development fund for and on behalf of his chiefdom people. This exposure and revelation was made as a result of consultative sessions held in the community by the Network Movement for Justice and Development in Koidu Town. The above mentioned are the few faces of corruption in the Non Renewable Natural Resource sector in Sierra Leone and which I believe is evidenced in other parts of the world where extraction is taking place.

Even though civil society's sustained campaign has seen government setting up of the Diamond Area Community Development Fund (DACDF) with some 0.75% of the 3% revenue generated from diamond exports every six month being sent back to licensed diamond mining chiefdoms for the purposes of:

- Supporting diamond mining communities/chiefdom development initiatives
- minimize illegal mining so as to improve revenue generation
- Serving as an entry point to promote community level responsibility and accountability in the diamond mining sector.

Yet this DACDF does not include the agricultural funds. The agricultural funds are not paid into government revenue funds but directly to the affected mining community for alternative livelihood activities. It is hoped that now that the consultations by civil society is making plain this funds and their intended use the receivers will be pressured by the right holders (mining communities) for its judicious use.

Currently the National Advocacy Coalition o Extractives of which the Network Movement for Justice and Development is an active member is closely monitoring the use of the DACDF funds from the government to mining communities. The responsibility for the disbursement of these funds as June 2006 has been passed on to the Local Councils. The chiefdoms take the responsibility of identifying the need of the community with the community and for the judicious use of the fund. The reality is the other way round. A research on the impact of the DACDF in 19 mining chiefdoms in four districts has been conducted by the Network Movement for Justices and Development with the report yet to be launched. The findings of this research will serve as the baseline for future monitoring of the fund

Further pressure form civil society and donor community has made government to put in place certain regulatory measures and policy review processes though grudgingly and not quite participatory or democratic. These processes are (some) assisted or facilitated by DFID, WB and include among others: Core mineral policy, A Consolidated Mines and Minerals Act for Sierra Leone, Anti-corruption strategies for the mineral sector, Money Laundry Bill proposed, Permit system for Kono diamond mining district proposed,

Compensation for identifying smuggled stones (40% to the one that reports a genuine case to the government).

Capacitating communities through training in national mining laws, mining procedures and international instruments is a key role of civil society in preventing and curbing corruption. Knowledge shared on KHL's mining lease agreement including the EIA report exposed Paramount Chief of Tankoro chiefdom who received the 0.1% of the annual proceeds from KHL allocated for chiefdom agricultural development in the affected community in 2005 amounting to Le37, 000,000 without accounting to the chiefdom people. This has stirred up further debate among the community people to check and verify the actual annual revenue of KHL.

Mining communities in the Kono and Rutile axis in Sierra Leone now demand copies of relevant mining agreements from the government stakeholders. These training sessions also expose the flaws in the mining leases and mining laws and policies and this has given rise to communities requesting for the a total overhauling of existing mining agreements and their participation in the process. Communities now demand accountability from their paramount chiefs who are custodians of the land in trust of their stewardship of community mining revenue collections and disbursements. It goes without saying that there are new developments in the Non Renewable Natural Resource (NRNR) sector of Sierra Leone as evidenced in the emergence of chiefdom platforms. These are independent groups of affected men, women and youths in mining communities who form themselves into pressure groups - (Association of Affected Property Owners – Tankoro Chiefdoms and Land Owners Association – Sandor chiefdom). These platforms with shared interest for people's welfare and rights to basic social services with increased knowledge on laws, policies and issues related to the operations of mining companies are now demanding for transparency in all agreements their local authorities make with mining companies. Recently this year the Land Owners Association in Sandor chiefdom with a peaceful demonstration stopped the Sierra Leone Diamond Corporation (SLDC) from doing any mining work for three days.

Civil society in its quest for transparency and accountability has been engaging the mining communities through consultative sessions. These consultative sessions takes the form of problem sharing dialogue for solution with affected mining communities of men, women and youths, chiefs and other decision makers. Invitations to these consultative sessions are sent out to members based on their pivotal role in the mining community i.e. has the effect / impact of mining, with decision making role like been responsible for giving out land for mining concessions or holders of responsible positions in mining companies. These sessions mostly bring the affected stakeholders together though the private sectors – the mining companies hardly show up. The affected communities make their cases and advance possible solutions for the attention of those responsible to take the need action like the Ministry of Mines and Mineral Resources and the Parliamentary Committee on Mines through policy dialogue meetings. Issues of arbitrary arrest by armed Sierra Leone police forces, unregulated blasting that leads to disruption of livelihood activities and loss of lives, the high prices of license fees, the grabbing of lands with no appropriate means of negotiation and compensation etc. Feedback is taken to these communities through training and sensitization session and radio discussions on

the related issues. These structures which are responsibly for monitoring and taking appropriate actions do so at snail pace due to powerlessness to tackle issues affecting the powers that be. The Network Movement for Justice and Development with its active Community based organization in these mining communities referred to Task force members actively monitors the operations in the NRNR sector and report with first hand information.

Conflict of interest

The government of Sierra Leone realizing that the industry is making very little headway in terms of reform and sanity and with support from DFID and World Bank has set to review the mining industry laws and policies. Varied points have been advanced mostly with conflict of interest. One such reason expressed is simply that

“ Diamonds played a major role in the civil war in Sierra Leone so at the dawn of peace in 2002, it became apparent that, diamond mining trading and exporting be brought under control and properly regulated in bid to:

Reduce illegal mining; reduce the smuggling of diamonds; Improve control of the mining industry; Reduce the incidence of using diamonds to fund arms conflict and acts of terrorism, and Maximize the contribution of diamonds to the economic benefit of Sierra Leone.”

Series of research works have been undertaken in this sector by civil society (Network Movement for Justice and Development) among others to bring to the open the blatant abuses of human rights and corrupt practices taking place in this sector if not checked will lead to further conflicts. It is also the responsibility of Civil Society to prove or disprove the notion that the NRNR sector is a deeply unjust process which is shrouded in secrecy, in which the community suffers the most while the government and the mining companies are perceived, on the whole, as blameless and only working in the interest of profit and national economic development. .

More and more research findings are building blocks for civil society engagement with government, corporate mining companies, and the communities themselves in the fight against corruption. These researches serve as evidence base for civil society to constructively challenge the emerging mining issues that creates room for corruption as well as proffer recommendations for redress.

Recently, civil society of Sierra Leone under the auspices of the National Coalition on Extractives (NACE) through series of advocacy and lobbying sessions with support from DFID was able to draw stakeholder in the extractive sector to a round table on 21st September 2006, to map out the way forward for the Extractive Industry Transparency Initiative (EITI) which is a government led process. Civil society is determined to see this process domesticated so that it can serve as a platform for Sierra Leoneans to start benefiting from the NRNR sector in some significant way. Further more it will help expose those aspects of the NRNR that the EITI has not revealed.

The round table resulted in the further endorsement of the government commitment in the process by revealing the long awaited driving ministry of the process - Ministry of Presidential Affairs, the formation of the EITI Steering Committee of which civil society was offered three sittings, a reschedule date for all the stakeholders to submit delegate names to the process and a reschedule dated for the first Steering Committee meeting – after Oslo 2006. At least the government was capacitated to make a presentation at the Oslo meeting and further show of government commitment to the process at such a gathering. With the support of DFID and World Bank a consultant to help the government push the process forward has been identified and now in country. Civil Society in Sierra Leone believes that the verification and full publication of company payments and government revenue from oil, gas, and mining is a laudable venture in increasing accountability of government and mining companies. This will promote good governance for economic growth and poverty reduction. The initiative though a laudable one civil society is of the view that it does not address the root cause of the problem. There is no mechanism especially in the case of Sierra Leone to have the mining company disclose the real annual returns the bases upon which the taxes are paid. If done, it will help validate the authenticity of the paid revenues to government. Further more the initiative fails to address other issues such as environmental degradation and reclamation and other corporate social responsibilities. The initiative did not make clear what will happen if a government is found wanting of the revenues published.

Civil society's active engagement in advocacy with the Ministry of Mines and Mineral Resources through policy dialogue meetings creates forum for discussing corrupt practices in the sector and collectively find ways of addressing them. Such issues as high cost of mining licenses by mining officials, duty bearers taking bribes in the form of constructed houses and vehicles as well as the misappropriation of DACDF are some of the corrupt practices in the NRNR sectors. When these findings are made they are brought to the notice of the mining ministry who mostly dismiss it as mere allegations. Others are prosecuted – like the paramount chief of Nimiyama chiefdom was mid this year brought to the high courts for misappropriation of the DACDF sent for his chiefdom.

Conclusion

In conclusion, if sustainable human development is to be achieved it goes without saying that civil society should intensify its role in this sector. The civil society also has the task of building its capacity to be able to effectively mobilize the needed resources and to engage the policy process. The sector can only be a source of blessing and not a curse, if the process from initiation i.e. requests for mining lease agreements to having the lease granted is done in a participatory manner for all stakeholders' involvement. Its also my submission that the platform of civil society in this sector needs a greater networking as active partners in development engaging at all levels national and international now more than ever if this arduous task of preventing and curbing corruption in this sector and making it a conflict free zone is to be a reality.

The civil society in the NRNR will continue to find an understanding of what makes powerful politicians do what they do, and which interests they represent, is of paramount importance in addressing the corruption problem. We will not relent in finding pockets of political support which is crucial to this process; for we know that even in societies where corruption is endemic, there are likely to be some proactive decision makers whose constituencies will support reforms to further the country's broader interests. When such special opportunities are absent, though, the necessary political will may still be generated--albeit more slowly--by efforts to enhance public awareness and mobilize constituencies of civil society to support anticorruption efforts.

We continue to request for constructive pressure and assistance from abroad if it can help. International organizations and donor groups can help to focus countries' attention on corruption and support reformists in government and civil society more generally.

Recommendations

- That the United Nations through the United Nations Development Programme in each country realizing the importance of the NRNR in economic development work through its governance sectors to empower the active participation of civil society organizations that are actively involved across natural resource-rich countries to hold governments accountable for policy reviews and enforcements as well as for the management of revenues received from the extractive industries and the expenditure of this income through budget advocacy and monitoring etc.
- Civil society and NGOs in the resource-rich countries like Sierra Leone face enormous challenges in their work on the diamond sector including threats on their life, limited capacity to be more effective, lack of adequate resources and logistics to effectively monitor especially corporate compliance and accountability as well as engage government. The United Nations Development Programme should prioritize NRNR sector and give significant support to these national/local advocacy and campaign efforts.

I thank you for listening to me!